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**BUILDING CODE ORDINANCE
ELECTRICAL CODE ORDINANCE
LIFE SAFETY ORDINANCE**

Section 1 Adoption of Code By reference

- A. Pursuant to RSA 156:1 and 156 A: 1, the Town of Allenstown adopts the following Codes by reference: The most current “International Building Code” and its revisions and the most current “International Residential Code” and its revisions.
- B. Pursuant to RSA 156:1, the Town of Allenstown adopts the following Code by reference: The most current National Electrical Code (NFPA NO. 70) as recommended by the National Fire Protection Association.
- C. Pursuant to RSA 156:1 and 156-A: 1, the Town of Allenstown adopts the following Code by reference: The most current Life Safety Code (NFPA No. 101) as recommended by the National Fire Protection Association.

Section 2 Administration and Enforcement by the Building Inspector

The provisions of this Ordinance and of this Code shall be administered and enforced by the Building Inspector who shall be appointed by the Board of Selectmen, and who shall report violations of this Ordinance and of this Code to the Board of Selectmen.

Section 3 Board of Appeal

The Allenstown Board of Adjustment shall serve as the Board of Appeal under this Ordinance and this Code.

Section 4 Penalty

Whoever violated any provision of this Ordinance or this Code shall be subject to a fine not exceeding \$25 for each separate offense. Each and every day or portion thereof, during which any violation is committed or continued, shall be deemed a separate offense, and each and every violation shall be deemed a separate offense.

Section 5 Fees

The Board of Selectmen shall prescribe the fees for permits or certificates issued under this Ordinance or this Code, and each application for a permit or certificate shall be accompanied by the prescribed fee.

Section 6 Separability

If any provision of this Ordinance or this Code or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance or Code and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 7 Other Provisions

Nothing in this Ordinance or this Code shall be construed to prevent the enforcement of other laws or regulations, which prescribe more restrictive limitations.

Section 8 Effective Date

This Ordinance and this Code shall take effect upon adoption.

MOBILE HOME BUILDING PERMIT ORDINANCE

Section 1 Authority

This Ordinance is adopted under the authority of RSA 156:1 (1975 Supp.).

Section 2 Building Permit Required

A mobile home shall be deemed a “building” under RSA 156, and no person shall erect, install, remodel, restore or replace a mobile home in the Town of Allenstown after the effective date of this Ordinance without first obtaining approval from the Building Inspector in accordance with RSA 153:3 (Supp.), 156-b (Supp.).

Section 3 Enforcement:

This Ordinance may be enforced pursuant to RSA 156:3 (1975 Supp.) and by such injunctive remedies as the courts may deem just.

Section 4 Separability

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 5 Effective Date

This Ordinance shall take effect upon adoption.

**MOBILE HOME ORDINANCE
AND
REGULATING THE INSTALLATION
OF MOBILE HOMES
INCLUDING MOBILE HOME PARKS**

Section 1 Adoption of Code by Reference

Pursuant to RSA 156:1, 156-A:1 and 47:22-a, the Town of Allenstown adopts the following Code by reference: The Standard for the Installation of Mobile Homes including Mobile Home Park Requirement (the most current edition, NFPA No. 501A), as recommended by the National Fire Protection Association.

Section 2 Administration and Enforcement by Building Inspector

The provisions of this Ordinance and of this Code shall be administered and enforced by the Building Inspector, who shall be appointed by the Board of Selectmen, and who shall report violations of this Ordinance and of this Code to the Board of Selectmen.

Section 3 Board of Appeal

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If any provision of this Ordinance or this Code or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance and Code and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 7 Other Provisions

Nothing in this Ordinance or this Code shall be construed to prevent the enforcement of other laws or regulations which prescribe more restrictive limitations.

Section 8 Effective Date

This Ordinance and this Code shall take effect upon adoption.

ZONING ORDINANCE

ARTICLE I - GENERAL

Section 101 Former Ordinance Repealed

The Zoning Ordinance of the Town of Allentown, New Hampshire, enacted in 1970, and amended, and the Mobile Home Ordinance of the Town of Allentown, enacted in 1964, are hereby repealed rather than amended, and the following Ordinance is enacted.

Section 102 Title

This Ordinance shall be known and may be cited as the Town of Allentown Zoning Ordinance of 1978, as amended.

Section 103 Purpose and Authority

This Ordinance is adopted pursuant to the authority conferred by RSA 31:60-89, for the purpose contained in RSA 31:62.

Section 104 Effective Date

This Ordinance shall take effect immediately upon passage. (March 12, 2002)

ARTICLE II - DEFINITIONS

Section 201 General

In the interpretation and enforcement of this Ordinance, all words other than those defined specifically below, shall have the meanings implied by their context in the Ordinance or their ordinarily accepted meanings.

The word ***person*** includes a firm, association, organization, partnership, trust company or corporation as well as an individual.

The present tense includes the future tense, a singular number includes the plural, and the plural number includes the singular.

The ***shall*** is mandatory, the word ***may*** is permissive.

The word ***lot*** includes the words lot or parcel.

Site plan review by the Planning Board is required for all uses other than one-or-two family dwellings.

Section 202 Specific Definitions

- a. Abandon – The visible or otherwise apparent intention of an owner to discontinue a non-conforming use of a building or premises; or the removal of the characteristic equipment or furnishings used in the performance of the non-conforming use and replacing it with a conforming use.
- b. Abutter – Shall be as defined in RSA 672:3, as amended.
- c. Alteration – Any construction, reconstruction or other action resulting in a change in the structural parts, height, number of stories, number of exits, use or location of a building or other structure.
- d. Apartment or Apartment House- Any dwelling unit, enclosed porch, addition, or above garage space with one or more rooms for the use of one or more persons as a housekeeping unit with space for eating, living, and sleeping and containing permanent provisions for cooking or sanitation. This definition replaces and supercedes any other definition of “Apartment” or “Apartment House” contained anywhere in these ordinances.
- e. Building – A structure of more or less permanent construction, having a roof and intended to be used for sheltering people, animals, property or business activity i.e. houses, garages, factories and barns. Temporary structures such as tents are not buildings.
- f. Campground – A plot plan of land upon which two or more campsites are located, established or maintained for occupancy by camping units as temporary living quarters for recreation, education or vacation purposes.
- g. Carport – A structure having a roof with at least three sides intended to shelter a motor vehicle, equipment or materials.

- h. Code Enforcement Officer – The individual designated by the local governing body to administer and enforce the zoning ordinance, building codes and other building related codes unless otherwise specified in the Code as adopted by the Town.
- i. Condominium Conversions – An apartment building with three or more living units for the use of individual families including the common ownership of the land.
- j. Condominiums – An estate in real property consisting of an undivided interest in common with other purchasers in a portion of real property together with a separate interest in residential building such as an apartment. Condominiums may include, in addition, a separate interest in other portions of such real property.
- k. Cluster Housing – Cluster housing is housing in a cluster development. A division of land into lots for use as individual residential building sites where said lots are arranged into one or more groups having area and yard measurements less than the minimum otherwise required by the Zoning Ordinance.
- l. Family Child Care Home – A private residence where care, protection and supervision are provided for a fee, at least twice a week to no more than six (6) children at one time, including children of the adult provider and in which the operator resides.
- m. Fence – An artificially constructed barrier of metal or wood to separate areas.
- n. Frontage – The length of the lot bordering on a public right-of-way.
- o. Group Child Care Center – A building where care, protection and supervision is provided on a regular schedule, at least twice a week to seven (7) or more children including children of the adult provider.
- p. Home Occupation – Any activity carried on for gain by a resident and conducted as a customary, incidental and accessory use in the resident's dwelling.
- q. Hotel – A building with rooms offering transient lodging accommodations with a daily/weekly rate to the general public.
- r. Industrial Use – Any manufacturing, compounding, processing, packing or treatment of goods and products.
- s. Junk – Waste, discarded or salvaged materials, including old glass, metals, textiles, paper cordage, brick, lumber, rubber, building materials, machinery, motor vehicles or parts thereof.
- t. Junk Yard/Salvage Yard – Defined as in RSA 236:112, (I), as amended.
- u. Livestock – includes, but is not limited to, cows, horses, chickens, pigs goats, llamas, sheep, turkeys, ducks, poultry, donkeys, mules, buffalo, reindeer and ostriches.

- v. Lodging House – A building in which rooms are rented with or without meals to three or more but not exceeding twenty persons. A boarding house, rooming house or a furnished room house shall be deemed a lodging house.
- w. Lumberyard – A commercial establishment where lumber is stored and sold to the general public.
- x. Motel – A building or group of detached or connected buildings designed or intended or used primarily for the providing of sleeping accommodations for travelers and having a parking space adjacent to a sleeping room. An automobile court, tourist court or motor lodge shall be deemed to be a motel.
- y. Recreation Vehicle – A vehicle which is:
 - 1. built on a single chassis,
 - 2. 400 square feet or less then measured at the largest horizontal projection;
 - 3. designed to be self-propelled or permanently towable by a light-duty truck;
 - 4. primarily designed not for use as a permanent dwelling, but as a temporary living quarters for recreational, camping, travel or seasonal use.
- z. Sawmill – A plant or factory where logs are sawed into boards.
- aa. Structure – Anything constructed or erected on the ground or which is attached to something located on the ground. Some structures are classified as buildings, radio and TV towers, sheds and permanent signs.
- bb. Tower – A structure situated on a non-residential site that is intended to be used for transmitting and receiving television, radio or telephone communications. Should be constructed of non-flammable material and not create a hazard to the surrounding area.
- cc. Outdoor Flea Markets – Shall be defined as any commercially run Flea Market, run for profit when held outside of the building/buildings of any property, not including privately held yard or tag sales”
- dd. Front Lot Line – Shall be defined as the side of a lot that contains at least the minimum required frontage on any street as dictated by the zone in which that lot lies and shall be dictated by that line which any landowner plans to, or does declare as its intended street address.

The lot line that the front entrance of any home or building shall abut as declared on any site plan. This definition replaces and supercedes any other definition of “Front Lot Line” contained anywhere in these ordinances.

ARTICLE III - ADMINISTRATION

Section 301 Building Inspector

- a. The provisions of this Ordinance and any amendments thereto shall be administered and enforced by the Building Inspector, who shall be appointed by the Board of Selectmen, and who shall report violations of this Ordinance to the Board of Selectmen.
- b. Enforcement of this Zoning Ordinance shall be pursuant to RSA 676:17-b.

Section 302 Building Permit Required

Written application for a building permit must be filed by the owner, his agent or lessee with the Building Inspector for any of the following, and except as provided for emergencies under RSA 31:70, until a building permit has been obtained from the Building Inspector (or, if the permit is denied, until the Board of Adjustment has directed that a permit be issued), none of the following shall be commenced:

- a. The erection of any new building, exterior sign or other structure.
- b. The alteration, restoration, moving or demolition of any building, structure, exterior sign or part thereof.
- c. The establishment of a professional office or home occupation pursuant to *Section 1102, Uses Not Permitted*.
- d. Any use of premises which is to provided for in this Ordinance, including but not limited to a change in the nature of the use of any building or premises to a non-conforming use from any lawful prior use, or any change in lot size or shape which would result in a violation of area or dimensional restriction.
- e. Temporary structures such as campers, park trailers and recreational vehicles used as living quarters in the RI & RII zone, open space and farm zone and used at residences located in a commercial/light industrial zone, industrial zone or business zone, shall not be occupied more than 21 days in a calendar year. Anyone obtaining a temporary permit shall be entitled to one 21-day extension unless the Code Enforcement Officer determines there is a substantial threat to public health, safety and/or welfare. The Board of Selectmen shall establish a fee for temporary permits.

Section 303 Application for Building Permit

Application for a building permit shall be upon an appropriate form as prescribed by the Building Inspector and shall be accompanied by:

- a. Plans drawn to scale, showing actual shape, dimensions and location of the lot to be used, of existing buildings upon it, of alterations proposed for existing buildings and of proposed new dwellings.

- b. Information as to the existing and intended use of each building, lot or part thereof, and as to the number of families, lodgers, or other occupants any building upon the premises is designed to accommodate.
- c. Such further details as the Building Inspector may require to determine and evaluate the application for building permit.

Section 304 Action on Application for Building Permit

The Building Inspector shall determine whether an application for a building permit is in compliance with a permitted use as defined in this Ordinance. If the Building Inspector determines that it is, the application for permit shall be approved and a building permit issued. If the Building Inspector determines that it is not, the application shall be denied. The Building Inspector shall act upon any application within thirty (30) days after it has been filed.

Section 305 Effect of Building Permit

Issuance of a building permit pursuant to this Ordinance constitutes approval by the Town for the proposed use only under the requirements of this Zoning Ordinance.

Section 306 Building Permit

A building permit shall be valid for one (1) year from the date of issuance provided that work is commenced under the permit within six (6) months after issuance. Said permit may be renewed for a further period of one (1) year. On new building, "construction commenced" shall mean the completion of at least the foundation. After a foundation is constructed, buildings must be completed within one (1) year unless the time is extended by the Building Inspector for good cause. All permits issued prior to the enactment of this amendment shall expire one (1) year from the date of enactment of this amendment unless renewed under the above provision.

Section 307 Duration of Building Permit

A building permit shall become void if construction is not begun thereunder within twelve (12) months from the date of issuance of the permit. Permits may be extended once for no more than an additional twelve (12) months by the Building Inspector upon receipt of a written request for extension at least fourteen (14) days prior to the expiration of the original permit.

Section 308 Transferability of Building Permit

No building permit issued hereunder shall be transferable to a subsequent owner.

Section 309 Building Permit of the Board of Adjustment

On approval of an application, a variance, special exception or appeal to an administrative decision by the Board of Adjustment, the Building Inspector shall issue a building permit upon receipt of the written notice of the approval by the Board of Adjustment.

Section 310 Fees

The fees for building permits and use permits shall be established by the Board of Selectmen. Said fee shall accompany each application for a building permit or application for a use permit.

Section 311 Use Permits:

Prior to a business occupying an existing building in any zone, including an approved location for a home occupation:

- a. A written application for a use permit shall be submitted to the Building Inspector upon an appropriate form as prescribed by the Building Inspector.
- b. A floor plan showing items such as, but not limited to, exits, interior walls, counter space, showcases and any other “obstacles”, sprinkler heads if applicable and fire extinguisher and emergency lighting locations shall be submitted with the application for review by the Fire Prevention Officer.

Prior to the issuance of a use permit, inspection must be conducted by the Building Inspector and Fire Prevention Officer or Fire Chief. If the property is serviced by Town water and/or sewer, the Allentown Sewer Department and Pembroke Water Works may conduct inspection as necessary. Use permit fees shall be set by the Board of Selectmen.

ARTICLE IV - BOARD OF ADJUSTMENT

Section 401 Creation and Appointment

The establishment of a Board of Adjustment is hereby authorized and the Board of Adjustment which existed prior to the adoption of this Ordinance is hereby dissolved. The members of the Board of Adjustment shall be appointed by the Board of Selectmen. They shall be residents of the Town and shall serve without compensation. In accordance with the laws of the State of New Hampshire, the following provisions shall apply:

- a. The Board of Adjustment shall consist of five (5) members. When the Board is first organized, one member shall be appointed to serve for one (1) year, one for two (2) years, and one for three (3) years, one for four (4) years and one for five (5) years, and thereafter the appointing authority shall annually appoint one member for a term of three (3) years. Said members shall be removable by the appointing authority upon written charges, and after public hearings.
- b. The Board of Adjustment shall also include such alternate members as may be appointed by the Board of Selectmen pursuant to RSA 31:67-a.
- c. No person may serve as a regular or alternate member of the Board of Adjustment while simultaneously serving in one or more of the following offices in the Town of Allenstown: Board of Selectmen, Building Inspector (regular or assistant), Fire Chief, Fire Prevention Officer or Sewer Commissioner. In addition, no more than one regular or alternate member of the Planning Board may simultaneously serve as a regular or alternate member of the Board of Adjustment.
- d. When there is a permanent vacancy, the Board of Selectmen shall appoint a person to serve for the unexpired term.
- e. The Board of Adjustment shall elect a chairman and secretary from its own membership.

Section 402 Jurisdiction

The Board of Adjustment shall have the following powers and duties, to be exercised only upon written appeal by a party aggrieved by a decision of the Building Inspector:

1. To determine whether the decisions of the Building Inspector are in conformity with the provisions of this Ordinance and to interpret the meaning of the Ordinance in cases of uncertainty.
2. To grant variances from the strict letter of the Ordinance in cases of practical difficulty or undue hardship, provided there is not substantial departure from the intent of the Ordinance.
3. REPEALED 03/03

Section 403 Hearings

For all appeals from decisions of the Building Inspector for consideration of applications for permits authorized by this Ordinance, the Board of Adjustment shall hold a public hearing as prescribed by RSA 31:17.

The Building Inspector, unless prevented by illness or absence from the State, shall attend all hearings and shall present to the Board of Adjustment, all plans, photographs or any other factual material which is appropriate to an understanding of the appeal.

The Board of Adjustment shall not continue hearing to a future date except for good cause. Written notice of the decision of the Board shall be sent to the appellant and the Building Inspector forthwith.

Section 404 Appeal Procedures

Any person or any municipal department aggrieved by a decision of the Building Inspector may appeal such decision to the Board of Adjustment.

Within thirty (30) days of the date of the decision of the Building Inspector, the appeal shall be entered at the Town Hall upon forms to be approved by the Secretary of the Board of Adjustment. The appellant shall set forth on said forms the grounds of this appeal and shall refer to the specific provisions of the Zoning Ordinance involved. Following the receipt of any appeal, the Secretary shall notify the Chairman of the Board of Adjustment. The appeal shall be in order for hearing at the next meeting of the Board of Adjustment followed by at least seven days and the publication or posting of the notice appeal.

An aggrieved party may appeal the decision of the Board of Adjustment to the Superior Court as provided by the laws of the State of New Hampshire.

Section 405 Special Exceptions

The Zoning Board of Adjustment shall hear all requests for special exception provided for in this ordinance. The Zoning Board of Adjustment shall grant such applications for special exception as meet the requirements of this section, the requirements of the section authorizing the exception and with such appropriate conditions as are deemed necessary and reasonable.

A. Special exceptions shall meet the following standards:

1. No hazard to the public or adjacent property on account of potential fire, explosion, toxic materials or hazardous activity.
2. No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood due to the location or scale of buildings and other structures, parking areas, access ways, odor, smoke, gas, dust or other pollutants, noise, glare, heat, vibration or unsightly outdoor storage of equipment, vehicles or other materials.
3. No creation of a traffic safety hazard or unmitigated substantial increase in the level of traffic congestion in the vicinity.
4. No excess demand on municipal services including but not limited to water, sewer, waste disposal, police and fire protection and schools.
5. No significant increase of storm water run off on to adjacent properties or public ways.
6. In an appropriate location for the proposed use.

7. No adverse effect on the health and safety of residents and others in the area and the proposed use shall not be detrimental to the use or development of adjacent or neighboring properties.
8. In the public interest and in the spirit of the ordinance
9. Requirements set forth in the ordinance for the particular use permitted by special exception.

B. Special exception approvals may be subject to appropriate conditions including but not limited to the following:

1. Front, side or rear setbacks in excess of the minimum requirements of this ordinance.
2. Screening of the premises on the street or adjacent properties by walls, fences or other methods.
3. Modification of the exterior features or appearance of buildings or other structures.
4. Limitations on the number of occupants, methods and hours of operations.
5. Alteration, grading and contouring of physical features the property.
6. Regulation of the design of access drives, sidewalks and other traffic features.
7. Regulation of the number, size, and lighting of signs more stringent than the requirements of this ordinance.

ARTICLE V - ESTABLISHMENT OF ZONES

Section 501 Types of Zones

For the purpose of this Ordinance, the Town of Allentown is hereby divided into the following types of use zones:

- a. Open Space and Farming Zone
- b. Residential zones as follows:
 - ~ Residential Zone I being all that land served by Town water and Town sewer.
 - ~ Residential Zone II being all that land not being served by Town water and Town sewer.
- c. Business Zone
- d. Industrial Zone
- e. Commercial/Light Industrial Zone

Section 502 Location of Zones

The zones described in Section 501 are located and bounded as shown on the official zoning map, which, together with all explanatory matter thereon, is adopted and made part of this Ordinance.

Section 503 Official Zoning Map

Regardless of the existence of other printed copies of the Zoning Map, which from time to time may be made or published, the Official Zoning Map which shall be located in the Town Hall Office of the Selectmen shall be the final authority as to the current zoning status of the land and water areas, building and other structures in the Town.

Section 504 Interpretation

Any use which is not expressly permitted in a zone shall be deemed forbidden in the zone.

Section 505 Prior Non-Conforming Uses

Prior lawful building and uses, which are rendered non-conforming by the Ordinance or any amendment thereto, may be continued indefinitely to the extent that such buildings and uses are provided such action does not increase the degree of non-compliance, but may not be:

- a. moved, enlarged, altered or extended;
- b. changed, by another non-conforming use;

- c. re-established if such use has been abandoned or discontinued for a period of one (1) year or has been changed to, or replaced by, a conforming use; or
- d. restored to other than a non-conforming use after damage from any cause, unless the non-conforming use is substantially re-instated within two (2) years.

Section 506 Prohibited Subdivisions

No subdivision shall be permitted in any zone unless all road frontage used to comply with the frontage and dimensional requirements for that zone is on a class V or better public way.

Section 507 Non-Conforming Lots

- A. A non-conforming lot is any lot of record in the Registry of Deeds in a zone that it fails to meet the dimensional requirements for that zone for road frontage or lot size.
- B. Non-conforming lots in the residential and the open space and farm zones may obtain a building permit without a variance so long as they meet all other requirements for the zone including all setbacks.
- C. A non-conforming lot or lots in any zone which are adjoining and have the same owner of record shall be required to eliminate the non-conformity to the maximum extent possible.
- D. Nothing in this section shall relieve any owner of the need to comply with the site plan review of any other requirements of a zone.

ARTICLE VI - OPEN SPACE AND FARMING

Section 601 Uses

In an Open Space and Farming Zone, land may be used and buildings may be erected for or used for:

- a. Single-family dwellings, provided that no such dwelling shall be located on a lot with less than two hundred (200) feet of frontage along one street with a minimum of five (5) acres in size. Two family dwellings may also be permitted on lots with two hundred (200) feet of frontage along one (1) street with a minimum of ten (10) acres in size.
- b. General purpose farm, forestry, agriculture or nurseries, or the selling of produce provided such uses are located and conducted in a manner not injurious, offensive and/or obnoxious to the general neighborhood and traffic.
- c. Municipal Recreation
- d. Water supplies
- e. Golf courses
- f. Family child care home

Section 602 Exceptions

In an Open Space and Farming Zone, the following exception may be permitted upon approval of the Board of Adjustment, subject to such conditions as may be imposed by the Board of Adjustment:

- a. Motels, hotels or lodging houses
- b. Campgrounds or overnight camps
- c. Airports
- d. Cemeteries
- e. Governmental Uses
- f. Removal of fill, gravel, stone or loam from the premises
- g. Warehouses
- h. Carports that would encroach on setback requirements
- i. Towers

- j. Cluster Housing – for cluster residential development or residential development in a clustered concept, subject to dimensional and density requirements less than the minimum normally required in the particular district, the following conditions shall apply:
1. The tract shall be at least fifteen (15) acres in size having frontage of two hundred (200) feet along one street and subject to approval by the Planning Board. There shall be no more than one dwelling unit permitted for every five (5) acres of lot size.
 2. If developed strictly for one-family detached residences, the following conditions shall apply:
 - a. Each individual lot shall be subject to the yard requirements for one-family detached dwellings in the residential zone with water and sewer;
 - b. The total number of proposed lots in the development shall not exceed the number of lots, which could be developed under normal application requirements. For purposes of this section, it shall be assumed that a maximum of 80% of the total tract area could be utilized to meet lot area requirements;
 - c. The development shall be served by an adequate water system and be wither the Town sewerage system or community system approved by the State Water Supply and Pollution Control Board;
 - d. At least 20% of the total tract area (of which 50% shall not be wetlands or over 5% slopeland) shall be set aside as common land and covenanted to be maintained as permanent open space in private or cooperative non-profit ownership;
 - e. Such common land shall be permanently covenanted simultaneously with the Planning Board approval of the final subdivision plan;
 - f. Such common land shall be restricted to open space recreational uses such as a park, playground, playfield, golf course, or conservation area and have suitable access to a street.
 3. If developed for one family attached and/or multi-family residences, the following shall apply:
 - a. Each individual lot shall have a minimum of 20,000 square feet plus 8,000 square feet for each dwelling unit;
 - b. The total land requirements for each building shall be 80,000 square feet plus 8,000 for each dwelling unit.
 - c. The development shall be served by an adequate water system and by either the Town sewerage system or community system approved by the State Water Supply and Pollution Control Board.
 - d. At least 20% of the total tract area (of which 50% shall not be wetlands or over 5% slopeland) shall be set aside as common land and shall be covenanted to be maintained as permanent open space in private or cooperative non-profit ownership;

- e. Such common land shall be permanently covenanted simultaneously with the Planning Board's approval of the final subdivision plan;
- f. Such common land shall be restricted to open space recreational uses such as tot lot, park, playground, playfield, golf course or conservation area and have suitable access to a street.
- g. Buildings shall not exceed thirty (30) feet in height.
- k. Group Child Care Home
- l. Retail Sales, Unobtrusive to the neighborhood.

Section 603 Repealed 3/98

Section 604 Dimensional Restrictions

No structure **shall be closer than** *twenty (20) feet from any street and thirty (30) feet from any rear or side lot line.*

- a. A swimming pool may be installed not closer than fifteen (15) feet from the rear lot line.
- b. A garage accessory to a one or two-family need not be set back more than ten (10) feet from the rear lot line; and
- c. A maximum of one utility shed or greenhouse not larger than 200 square feet of floor area with a height not greater than 7 feet to the eaves and 10 feet from the floor to the ridge, need not be set back more than 5 feet from any side or rear lot line and be no closer than 6 feet from any residence. *Effective 3/11/08*

~~A utility shed or greenhouse not larger than one hundred forty four (144) square feet of floor area with a height not greater than seven (7) feet to the eaves and ten feet from the floor to the ridge, need not be set back more than one (1) foot from any side or rear lot line and be no closer than six (6) feet from any residence.~~

- d. The driveway shall be located on the portion of the property which has road frontage conforming with the dimension and requirements for frontage in this zone. In the case of non-conforming buildable lots the driveway shall be located on the portion of the property which has the most road frontage conforming with the dimensional requirements of this zone. *Effective March 13, 2007*

ARTICLE VII - RESIDENTIAL ZONE

Section 701 Uses

In a Residential Zone, land may be used and buildings may be erected or used for:

- a. Single-family dwellings
- b. Recreational and community center buildings and grounds for games and sports, except those activities of which is customarily carried on primarily for gain.
- c. Family Child Care Home
- d. Gardens when incidental to primary residential use by excluding any use injurious, noxious or offensive to the neighborhood

Section 702 Exceptions

In a Residential Zone, the following may be permitted upon approval of the Board of Adjustment, subject to such conditions as may be imposed by the Board of Adjustment:

- a. Municipal uses
- b. Public utility uses necessary for public welfare
- c. Funeral parlors
- d. Professional offices
- e. Two-family dwellings
- f. Apartment houses
- g. Carports that would encroach on setback requirements
- h. Group child care center (more than 6 children)
- i. Kindergartens
- j. Multi-family dwelling
- k. Home Occupation

Section 703 Dimensional Restrictions

The following restrictions apply in a Residential Zone:

- a. No structure shall exceed two (2) stories or thirty (30) feet in height from the ground to the highest point on no less than three sides of the structure exclusive of accessory chimneys or accessory antennas.

- b. No structure **shall be closer than** *twenty (20) feet from any street, or closer than thirty (30) feet from any rear lot line or closer than fifteen (15) feet from any side lot line*, except that:
 - 1. A swimming pool can be installed not closer than fifteen (15) feet from the rear lot line;
 - 2. A garage accessory to a one or two-family dwelling need not be set back more than ten (10) feet from the rear lot line; and
- c. One utility shed or greenhouse not larger than one hundred forty-four (144) square feet of floor area with a height not greater than seven (7) feet to the eaves and ten (10) feet from the floor to the ridge need not be set back more than one (1) foot from any side lot line or rear lot line and be no closer than six (6) feet from any residence.
- d. When Town water and sanitary sewers are available, no lot shall have less than one hundred (100) feet of frontage on any one accepted street, nor an area of less than ten thousand (10,000) square feet.
- e. When Town water or sanitary sewers are **not** available, no lot shall have less than two hundred (200) feet of frontage along any one accepted street, nor an area of less than forty thousand (40,000) square feet.
- f. No more than forty (40%) percent of the area of any lot may be covered by buildings or structures.
- g. All two (2) family dwellings, apartment houses, and multifamily dwellings having Town water and sewer available shall have at least ten thousand (10,000) square feet of lot size for each dwelling unit. All two (2) family dwellings, apartment houses and multifamily dwellings not having Town water and sewer available shall have at least forty thousand (40,000) square feet of lot size for each dwelling unit.
- h. The driveway shall be located on the portion of the property which has road frontage conforming with the dimensional requirements for frontage in this zone. In the case of non-conforming buildable lots the driveway shall be located on the portion of the property which has the most road frontage conforming with the dimensional requirements of this zone. *Effective March 13, 2007*

Section 704 Uses Not Permitted

- a. The keeping of livestock is not permitted on any lot in the Residential Zone.
- b. No small engine repair, motor vehicle repair, or any other form of engine repair service or business shall be permitted on any lot in the residential zone as a home occupation or otherwise.

ARTICLE VIII - BUSINESS ZONE

Section 801 Uses

In a Business Zone, land may be used and buildings may be erected or used for:

- a. Any purpose permitted in a Residential Zone under Section 701, b. and c.
- b. Churches
- c. Hospitals
- d. Municipal Uses
- e. Funeral parlors
- f. Filling stations and automobile repair garages
- g. Garden nursery
- h. Museums
- i. Lodging houses, hotels or motels
- j. Clubs, private or public
- k. Newspaper or job printing plants
- l. Offices
- m. Banks
- n. Places of amusement or assembly
- o. Restaurants
- p. Any other business, service or public utility not involving manufacture on the premises, except that manufacture of products, the major portion of which is to be sold at retail by the manufacturer to the consumer on the premises; is permitted.
- q. Sale of goods

Section 802 Exceptions

- a. Towers
- b. Carports
- c. Manufacturing
- d. Automobile Sales

Section 803 Uses Not Permitted

- a. In a Business Zone, no land, building, structure or premises shall be used for a coal yard, lumber yard or any other purpose injurious, noxious or offensive to the neighborhood by reason of emission or odor, fumes, dust, smoke, vibration, noise or other cause.
- b. The keeping of livestock.

Section 804 Dimensional Restrictions

The following restrictions apply in a Business Zone:

- a. No structure shall exceed three (3) stories or forty-five (45) feet in height from the ground to the highest point on any one side, exclusive of accessory chimneys or accessory antennas.
- b. No structure shall be erected closer than fifteen (15) feet to any side lot line, unless a fire wall, approved by the Fire Chief, shall protect both structures facing such side lot line.
- c. No structure shall be erected closer than forty (40) feet to the nearest rear lot line.
- d. No more than seventy (70%) percent of the land area of any lot may be covered by buildings or structures.
- e. No lot shall have less than seventy-five (75) feet frontage on any one accepted street.
- d. ~~When parking is provided other than in front of a building, a setback from the sidewalk line of not less than five (5) feet shall be required. When parking is provided in front of a building, a setback from the sidewalk line of not less than twenty (20) feet is required. Effective March 13, 2007~~

ARTICLE IX - INDUSTRIAL ZONE

Section 901 Uses

In an Industrial Zone, land may be used and buildings may be erected or used for:

- a. Offices
- b. Sales outlets of good which are manufactured in the Zone.
- c. Restaurants
- d. Filling Stations
- e. Newspaper or printing plants
- f. Warehouses
- g. Banks
- h. Guardhouse for watchman
- i. Schools
- j. Manufacturing
- k. Sawmills
- l. Outdoor Flea Markets

“Outdoor Flea Markets may be held on Saturdays, Sundays and legal Monday Holidays, on such terms and conditions in order to ensure that such Flea Markets are not detrimental to the neighborhood or abutting properties. No person or premises shall conduct an outdoor Flea Market on any day other than Saturdays, Sundays and legal Monday Holidays and; no person or premises shall be granted permission to hold such a Flea Market before 7:00 AM, or after 7:00 PM. Flea Markets will be restricted to occur no sooner than April 15th and no later than October 15th of each year. The proprietor/manager of an Outdoor Flea Market will be responsible for providing sufficient “Off street” parking ample for the size of the flea market, shall provide refuse collection and removal services, and shall conform to all other ordinances detailed herein.”

Section 902 Exceptions

In an Industrial Zone, uses consistent with the character of the Zone including, but not limited to, retail sales, may be permitted upon approval by the Board of Adjustment, subject to such conditions as may be imposed by the Board of Adjustment.

Section 903 Uses Not Permitted

In an Industrial Zone, no land, building, structure or premises shall be used for a coal yard, or for any other purpose injurious, noxious or offensive to the neighborhood by reason of emission of odor, fumes, dust, smoke, vibration, noise or other cause.

Section 904 Dimensional Restrictions

The following restrictions apply in an Industrial Zone:

- a. No structure shall exceed three (3) stories or forty-five (45) feet in height from the ground to the highest point on any one side, exclusive of accessory chimneys or accessory antennas.
- b. No structure shall be *erected closer than fifteen (15) feet to any side lot line*, unless a fire wall, approved by the Fire Chief, shall protect both structures facing such side lot line.
- c. No structure shall be erected *closer than forty (40) feet to the rear lot line*.
- d. When parking is provided other than in front of the building, a setback from the sidewalk line of not less than five (5) feet shall be required. When parking is provided in front of a building, a setback from the sidewalk line of not less than twenty (20) feet shall be required.
- e. No more than seventy (70%) percent of the land area of any lot may be covered by buildings or structures.
- f. No lot shall have *less than seventy-five (75) feet frontage on any one accepted street*.
- g. Keeping of livestock may be permitted by the Zoning Board of Adjustment by special exception upon the applicant meeting the following conditions:
 - i. Livestock shall be housed in an appropriate structure.
 - ii. Livestock shall not be kept closer than 250' to any abutting residence.
 - iii. Livestock shall not be kept closer than 200' from any abutting property line.
 - iv. All livestock housing shall be erected prior to allowing animals to be kept on the property.
 - v. Submission of a detailed manure management plan consistent with the Manual of Best Management Practices for Agriculture in New Hampshire.
 - vi. The property is suitable for the keeping of livestock such as, but not limited to, grazing area, etc.
 - vii. The keeping of livestock will not diminish surrounding property values.
 - viii. The use shall be consistent with the character of the neighborhood.
 - ix. The use shall not be contrary to the spirit of the zoning ordinance.
 - x. Submission of a surface water run off plan which shall include, but is not limited to, the impact of run off from the livestock operations on surface water, groundwater, abutting properties and municipal sewers. The use shall not adversely impact surface water or groundwater, abutting properties or municipal sewers.

- xi Implementation of appropriate measures to mitigate odor, noise and vectors and shall provide an appropriate visual buffer.
- xii The use shall not otherwise adversely affect the environment, public health or safety.

ARTICLE X - COMMERCIAL/LIGHT INDUSTRIAL ZONE

Section 1001 Uses

In a Commercial/Light Industrial Zone, land may be used and buildings erected or used for:

- a. Hospitals
- b. Municipal Uses
- c. Schools
- d. Filling stations and automobile garages
- e. Garden nursery
- f. Newspaper or job printing plants
- g. Offices
- h. Banks
- i. Places of amusement or assembly
- j. Restaurants
- k. Sales of goods
- l. Lumber Yards
- m. Warehouses/self storage units
- n. Outdoor Flea Markets

“Outdoor Flea Markets may be held on Saturdays, Sundays and legal Monday Holidays, on such terms and conditions in order to ensure that such Flea Markets are not detrimental to the neighborhood or abutting properties. No person or premises shall conduct an outdoor Flea Market on any day other than Saturdays, Sundays and legal Monday Holidays and; no person or premises hold such a Flea Market before 7:00 AM, or after 7:00 PM. Flea Markets will be restricted to occur no sooner than April 15th and no later than October 15th of each year. The proprietor/manager of an Outdoor Flea Market will be responsible for providing sufficient “Off street” parking ample for the size of the flea market, shall provide refuse collection and removal services, and shall conform to all other ordinances detailed herein”

Section 1002 Exceptions

- a. Towers
- b. Sawmills
- c. Automobile sales

Section 1003 Uses Not Permitted

In a Commercial/Light Industrial Zone, no land, building, structure, or premises shall be used for a coal yard, or for any other purpose injurious, noxious or offensive to the neighborhood by reason of emission of odor, fumes, dust, smoke, vibration, noise or other cause.

Section 1004 Dimensional Restrictions

The following restrictions apply in a Commercial/Industrial Zone:

- a. No structure shall exceed three (3) stories or forty-five (45) feet in height from the ground to the highest point on any one side, exclusive of accessory chimneys or accessory antennas.
- b. No structure shall be erected *closer than fifteen (15) feet to any side lot line*, such side lot line unless a fire wall, approved by the Fire Chief, shall protect both structures facing such side lot line.
- c. No structure shall be *erected closer than forty (40) feet to the nearest rear lot line*.
- d. When parking is provided other than in front of the building, a setback from the sidewalk line of not less than five (5) feet shall be required. When parking is provided in front of a building, a setback from the sidewalk line of not less than twenty (20) feet shall be required.
- e. No more than seventy (70%) percent of the land area of any lot in the zone may be covered by buildings or structures.
- f. No lot shall have less than seventy-five (75) feet frontage on any one accepted street.
- g. Keeping of livestock may be permitted by the Zoning Board of Adjustment by special exception upon the applicant meeting the following conditions:
 - i. Livestock shall be housed in an appropriate structure.
 - ii. Livestock shall not be kept closer than 250' to any abutting residence.
 - iii. Livestock shall not be kept closer than 200' from any abutting property line.
 - iv. All livestock housing shall be erected prior to allowing animals to be kept on the property.
 - v. Submission of a detailed manure management plan consistent with the Manual of Best Management Practices for Agriculture in New Hampshire.
 - vi. The property is suitable for the keeping of livestock such as, but not limited to, grazing area, etc.
 - vii. The keeping of livestock will not diminish surrounding property values.
 - viii. The use shall be consistent with the character of the neighborhood.
 - ix. The use shall not be contrary to the spirit of the zoning ordinance.

- x Submission of a surface water run off plan which shall include, but is not limited to, the impact of run off from the livestock operations on surface water, groundwater, abutting properties and municipal sewers. The use shall not adversely impact surface water or groundwater, abutting properties or municipal sewers.
- xi Implementation of appropriate measures to mitigate odor, noise and vectors and shall provide an appropriate visual buffer.
- xii The use shall not otherwise adversely affect the environment, public health or safety.

ARTICLE XI - SUPPLEMENTAL REGULATIONS

Section 1101 Accessory Uses

Nothing herein shall be construed to forbid an accessory use which is customary and incidental to the dominant use is permitted under this Ordinance, and if such accessory use is not injurious or detrimental to the neighborhood.

Section 1102 Accessory and Home Occupation

Nothing herein shall be construed to prevent a physician, surgeon, dentist, musician or a member of another recognized profession from conducting a business in his residence or in an adjoining accessory building, nor shall this Ordinance be construed to prevent the carrying out in a residence of a customary home occupation, including dressmaking or music instruction, provided that such business or occupation shall not be injurious, noxious or objectionable to the general neighborhood.

Section 1103 Proposed Streets

After a line of a future street is placed on the official map of the Town, buildings shall be set back from such line as though it were a street line.

Section 1104 Surface Waters

All setbacks from surface waters shall be consistent with RSA 483-B, as amended. Any surface waters not governed by RSA 483-B shall have no structures constructed within forty (40) feet of the high water mark.

Section 1105 Obstructions

No wall, fence or other structure, vehicle(s) including, but not limited to cars, trucks, boats and campers, signage, trees, shrubs or other growth on the property shall obstruct the view as to cause danger to traffic on a public way. No fence shall exceed eight (8) feet in height in any zone. Fences shall be constructed with materials approved by the Building Inspector. No plastic (construction) or other construction fencing shall be permitted as permanent fencing.

Section 1106 Casual Sales

Casual sales, such as garage sales, yard sales and tag sales, when otherwise prohibited by the ordinance, may be authorized by the selectmen for Saturdays, Sundays and legal Monday holidays on such terms and conditions as they may impose in order to ensure that such yard sales, tag sales and flea markets are not detrimental or injurious to the neighborhood. No person or premises shall be granted permission to conduct such sale on more than one (1) weekend per calendar month and no person shall be granted permission to conduct sales before 7 a.m. or after 7 p.m.

Section 1107 Junk

No land shall be used for the storage or accumulation of junk as defined in RSA 236:1123 (I), as amended.

Section 1108 Exception to Height Limitations

Exception to the provision of this Ordinance, regarding the maximum height or number of stories of a structure, may be permitted upon approval of the Board of Adjustment subject to such conditions as may be imposed by the Board of Adjustment.

Section 1109 Restriction Governing Motel Uses

The following additional restrictions shall govern motel uses:

- a. The minimum land area shall be 3 acres.
- b. The minimum lot frontage shall be 300 feet and the minimum lot depth shall be 200 feet.
- c. No structure shall be closer than 50 feet to any lot line.
- d. A space not less than 20 feet wide, grassed or shrubbed or otherwise prohibited for parking, shall be maintained along each lot line except at the point where a driveway intersects a street.
- e. The maximum percentage of the land area of each lot which may be occupied by buildings shall be 25%.
- f. Each motel shall consist of not more than 20 units per acre of land area.
- g. Each motel unit shall have one paved parking space adjoining its entrance.

Section 1110 Apartment Houses and One-Family Attached

The following additional restrictions shall govern apartment houses:

- a. No building shall include more than eight (8) dwelling units.
- b. No portion of any dwelling unit shall be located below ground level.
- c. No building shall be within forty (40) feet of any property or street line.
- d. There shall be a total of not less than ten thousand (10,000) square feet of lot area per dwelling unit.

Section 1111 Signs

Where a business, industrial or other commercial use is otherwise permitted, one outdoor sign shall be permitted for each such establishment occupying the premises, advertising the name of and/or the goods and services offered by that establishment. The total square footage of the signs for any premises are not to exceed thirty-two (32) square feet. Special exception to the provision restricting signs to a maximum of thirty-two (32) square feet and the number of signs may be permitted upon approval of the Board of Adjustment subject to such conditions that the Board of Adjustment may impose.

An approved location of a home occupation located in the Residential or Open Space and Farms Zone, may display a sign no more than 1 foot by 2 foot or any dimension totaling 2 square feet. The sign is required to be consistent with the character of the neighborhood.

Section 1112 Parking Requirements

- a. Each dwelling shall have at least one (1) parking space on the same lot therewith or on land adjacent thereto for each dwelling unit.
- b. Each hotel, motel or lodging house shall have at least one (1) paved all-weather parking space on the lot therewith or on land adjacent thereto for each lodging unit.
- c. Each place of public assembly shall have at least one (1) paved all-weather parking space on the same lot therewith, on land adjacent thereto, to within three hundred (300) feet of the entrance thereof, for each five (5) available seating spaces and for each eight hundred (800) square feet of floor area in public use, except that schools through the tenth grade shall have at least one such parking space for each twenty (20) seating spaces for each three thousand, two hundred (3,200) square feet of floor area in public use.
- d. Each retail store or office building shall have at least one (1) paved all-weather parking space on the lot therewith or on land adjacent thereto for each two hundred (200) square feet of first floor area and for each four hundred (400) square feet of floor area above the ground floor.
- e. Each restaurant shall have at least one (1) paved all-weather parking space on the lot therewith or on land adjacent thereto for each fifty (50) square feet of floor space devoted to patron use.
- f. Each roadside stand shall have at least seven (7) paved all-weather parking spaces on the lot therewith or on land adjacent thereto for each customer service employee.
- g. All uses other than residential shall provide adequate parking space off the road or street and outside the public right-of-way for vehicles delivering, loading, unloading, or taking away goods, materials, supplies or waste in connection with the use.
- h. Parking shall be provided, and traffic in connection with such parking shall be channeled, so that all vehicles entering the roadway from the parking area shall enter in a forward motion and at a right angle to the street.
- i. Unless otherwise specified in this ordinance or the subparagraph or site plan review regulation for the Allenstown Planning Board all parking spaces shall be a minimum of 10 feet in width and 20 feet in length except the parking spaces which are located parallel to a travel isle shall be 10 feet in width and 22 feet in length. *(Adopted 3/11/08)*

Section 1113 Repealed – 3/95

Section 1114 Obnoxious Uses Barred

Notwithstanding any other provision of this Ordinance, no use shall be permitted in any zone which is injurious, noxious, offensive or detrimental to the neighborhood or to the public by reason of the emission of odor, fumes, dust, smoke, vibration, or noise, or because of pollution of groundwater or surface water, or for any other deleterious reason.

Section 1115 Waste Disposal Sites

No trash or garbage dump, sanitary landfill, or hazardous waste disposal facility shall be located in any zone, except such municipal or governmental uses as are immune from this Zoning Ordinance under State law, and then only to the extent required by the State law.

Section 1116 Regulations

Only one (1) residential building, together with such buildings which are customarily accessory thereto, shall be located on each lot.

Section 1117 Hazardous Uses Barred

The storage, treatment or disposal of nuclear, chemical or hazardous waste as defined in RSA 147-A: 2 VII shall not be permitted in any Zone in the Town of Allenstown.

Section 1118 Uses Not Permitted:

- a. The conversion of any existing manufactured housing park to condominium use.
- b. No more than one (1) unregistered, inoperable or uninspectable motor vehicle shall be allowed in a residential zone.
- c. No more than two (2) unregistered, inoperable or uninspectable motor vehicles shall be allowed on any lot in any other zone unless housed in a building or unless the lot is currently in use as a licensed motor vehicle dealership.
- d. No person shall utilize a foundation as a dwelling or business.

Section 1119 Town Building Code Regulations

- a. Above-ground pools must have retractable steps or other safeguards so as not to permit small children to the pool unattended.
- b. An occupancy permit will not be issued and occupancy will not be permitted in any zone unless:
 1. All necessary inspections have been performed to ensure full code compliance on electrical, water, sewer, furnace and construction.
 2. The exterior of the building has been substantially completed, including all doors, windows, trim and commonly recognized permanent roofing and siding materials.
 3. The exterior portions of all buildings in any zone shall be substantially completed within one (1) year from the start of construction, including all doors, windows, trim and commonly recognized permanent roof and siding materials. The time for completion of the exterior may be extended for up to one additional year by the Building Inspector for just cause.

- c. Junk or unusable tires, as defined in RSA 266:49, shall not be stored on any lot in any zone in Allenstown, except that a licensed motor vehicle dealership or repair facility may store no more than forty (40) junk or unusable tires.
- d. No more than four (4) used tires shall be stored on any lot in any zone in Allenstown except at a licensed motor vehicle dealership or repair facility.
- e. Prior to a certificate of occupancy being issued for new construction, mobile homes or any business, numbers not less than three (3) inches in height shall be clearly displayed and visible from the street identifying the structure's numerical address.
- f. Excavations for proposed future construction may not be left open so as to create a safety hazard. Excavations for projects under construction must be safeguarded when the site is unattended.
- g. No owner or occupant of land in any zone shall permit fire or other ruins to be left on a site. The owner or occupant shall remove such ruins and fill or cap any excavation within six months. Replacement of the structure shall occur within one year of the fire or the use will be considered abandoned.
- h. No driveway shall be permitted or constructed in any zone which has a slope of fifteen degrees or greater. No building or house shall be permitted or constructed in any zone on a slope of twenty-five degrees or greater.

ARTICLE XII - FLOODPLAIN DEVELOPMENT REGULATIONS

This Ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Allenstown Floodplain Development Ordinance. The regulations in this Ordinance shall overlay and supplement the regulations in the Town of Allenstown Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under State law. If any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulation in this Ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the Town of Allenstown, NH" together with the associated Flood Insurance Rate Maps and Flood Boundary and Floodway Maps of the Town of Allenstown dated April 2, 1979 which are declared to be a part of this Ordinance and are hereby incorporated by reference.

Item 1 Definition of Terms: The following definitions shall apply to this Floodplain Development Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Allenstown.

Area of Special Flood Hazard- is the land in the floodplain within the Town of Allenstown subject to a one-percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A and AE. ~~zones A, A1-30.~~ (Change Effective 3/11/08)

Base Flood- means the flood having a one-percent possibility of being equaled or exceeded in any given year.

Basement- means any area of a building having its floor subgrade on all sides.

Building- see structure.

Development- means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, ~~excavating~~ excavation or drilling operation or storage of materials. (Change Effective 3/11/08)

FEMA- means the Federal Emergency Management Agency.

Flood or Flooding- means a general and temporary condition of a partial or complete inundation of normally dry land areas from:

1. the overflow of inland or tidal waters;
2. the unusual and rapid accumulation or runoff of surface waters from any source.

~~**Flood Boundary and Floodway Map** is an official map of the Town of Allenstown on which FEMA has delineated the Regulatory Floodway. This map should not be used to determine the correct flood hazard zone or base flood elevation, the Flood Insurance Rate Map (FIRM) will be used to make determinations of flood hazard zone and base flood elevations.~~ (Change Effective 3/11/08)

Flood Insurance Study- means an examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.

Flood Insurance Rate Map (FIRM)- means an official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the town of Allentown.

Floodplain or Flood prone area- means any land area susceptible to being inundated by water from any source.

Flood proofing- means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

Functionally dependent use- means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade- means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure- means any structure that is:

- a. Listed individually in the National Register of Historic (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirement for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic placed in communities with historic preservation programs that have been certified either:
 1. By an approved State program as determined by the Secretary of the Interior; or
 2. Directly by the Secretary of the Interior in states without approved programs.

Lowest Floor- means the lowest floor of the lowest enclosed area, including basements. An unfinished or flood-resistant enclosure, usable solely for parking vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured Home - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when ~~connected~~ **attached** to the required utilities. For flood plain management purposes the term “manufactured home” includes park trailers, travel trailers and other similar vehicles placed on site for greater than one hundred eighty (180) days. **This includes manufactured homes located in a manufactured home park or subdivision.** This definition shall only apply to floodplain regulations. *(Changes Effective 3/11/08)*

Manufactured home park or subdivision – means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. *(Effective 3/11/08)*

Mean Sea Level - means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on the community’s Flood Insurance Rate Map are referenced.

New construction - means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. *(Effective 3/11/08)*

Recreational Vehicle - is defined as:

- a. Built on a single chassis;
- b. 400 square feet or less when measures at the largest horizontal projection;
- c. Designed to be self propelled or permanently towable by a light duty truck; and
- d. Designed permanently not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Regulatory Floodway - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without **cumulatively** increasing the water surface elevation **more than a designated height.** ~~These areas are designated as floodway on the Flood Boundary and Floodway Map.~~ *(Changes Effective 3/11/08)*

Special Flood Hazard Area - means an area having flood, mudslide and or flood-related erosion hazards, and shown on a FIRM as zone A or A1-30.

Structure - means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Start of Construction - includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it

include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

Substantial Damages - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would be equal or exceed fifty percent (50%) of the Market Value of the structure before the damage occurred.

Substantial Improvement - means any combination of repairs or reconstruction, alteration, or improvements to a structure in which the cumulative costs equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Violation - means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Item V, Item VIII(2b), or Item VII(3)(4) is presumed to be in violation until such time as that documentation is provided. (*Effective 3/11/08*)

Water Surface Elevation - means the height in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or other datum where specified, of floods or various magnitudes and frequencies in the floodplain.

Item II - All proposed development in any special flood hazard areas shall require a building permit.

Item III - The building inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall;

- a. be designed or modified and adequately anchored to prevent floatation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- b. be constructed with materials resistant to flood damage,
- c. be constructed by methods and practices that minimize flood damage,
- d. be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Item IV - Where new or replacement water or sewer systems, including on-site systems, are proposed in a special flood hazard area, the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and

discharge from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

Item V - For all new or substantially improved structures located in ~~z-Zones A or 30~~ and **AE**, the applicant shall furnish the following information to the building inspector: *(Effective 3/11/08)*

- a. the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structure contains a basement.
- b. If the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed,
- c. any certification of flood proofing.

The Building Inspector shall maintain for public inspection and shall furnish such information upon request.

Item VI - The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those government agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

Item VII –

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands ~~Board~~ **Bureau** of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Conservation Commission, including notice of all scheduled hearings before the Wetlands ~~Board~~ **Bureau**. *(Changes Effective 3/11/08)*
2. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. Along watercourse with a designated Regulatory Floodway, no encroachments, including fill, new construction, substantial improvements and other development are allowed within the floodway unless it has been demonstrated, through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. ~~In zone A, the Conservation Commission shall obtain, review and reasonably utilize any floodway data available from Federal, State or other sources as criteria for requiring that development meet the floodway requirement of this section.~~ *(Changes Effective 3/11/08)*
4. ~~Along watercourses that have not had a~~ **Until a** Regulatory Floodway designated **along watercourses**, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones ~~A1-30~~ **AE** on the FIRM unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated

development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. *(Changes Effective 3/11/08)*

Item VIII

1. In special flood hazard areas the Building Inspectors shall determine the 100 year flood elevation in the following order of precedence according to the data available;
 - a. In Zones ~~A1-30~~ **AE**, elevation data provided in the community's flood insurance study and accompanying FIRM. *(Changes Effective 3/11/08)*
 - b. In ~~unnumbered A-zones~~ **Zone A**, the Building Inspector shall obtain, review and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community. i.e. subdivisions, site plans. *(Changes Effective 3/11/08)*
2. The Building Inspector's 100-year flood determination will be used as criteria for requiring in zones A and A1-30 that:
 - a. All new construction or substantial improvements of residential structures have the lowest floor, including basement, elevated to or above the 100-year flood elevation.
 - b. All new construction or substantial improvement of non-residential structures have the lowest floor, including basement, elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
 - i.) be floodproofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - ii.) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - iii.) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
 - c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the home is at or above the base flood level; and be securely anchored to resist floatation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top frame ties to ground anchoring requirements for resisting wind forces.
 - d. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements: 1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; 2) the area is not a basement; 3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria; a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be

provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

All recreational vehicles placed on sites within Zones ~~A1-30~~ **AE** shall either:

- i.) be on site for fewer than 180 consecutive days;
- ii.) be fully licensed and ready for highway use; or
- iii.) meet all standards of section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” in paragraph (c)(6) of section 60.3. *(Changes Effective 3/11/08)*

Item IX - Variances and Appeals

1. Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing, in addition to the usual variance standards under state law:
 - a) that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
 - b) that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
 - c) that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the application in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
4. The community shall (i) maintain a record of all variance actions, including their justification for their issuance and (ii) report such variances issued in its annual or biennial report submitted to FEMA’s Federal Insurance Administrator.

ARTICLE XIII - ENFORCEMENT

Section 1301 – ~~In addition to any other remedies authorized by law, in case any building or structure is erected, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Zoning Ordinance, the owner or owners of the building, structure or land any other person violating the provisions of this Zoning Ordinance may be punished by a fine of not more than \$100 for each day that such violation continues after the conviction date, not exceeding \$500 in accordance with the provisions of RSA 676:17.~~

“In addition to any other remedies authorized by law, in case any building or structure is erected, reconstructed, altered, repaired, converted or maintained or any building structure or land is used in violation of this zoning ordinance, the owner or owners of the building, structure or land, or any other person violating the provisions of this zoning ordinance may be subject to the fines or penalties prescribed in the maximum amount permitted by RSA 676:17 for each and every day that such violation continues or occurs. *Effective March 13, 2007*”

ARTICLE XIV - AMENDMENTS

Section 1401 – This Ordinance or any part thereof, may be amended from time to time in accordance with the procedures prescribed by the laws of the State of New Hampshire.

ARTICLE XV - SEPARABILITY

Section 1501 – The invalidity of any section or provision of this Ordinance shall not be held to invalidate any other section or provision of this Ordinance.

ARTICLE XVI - DATE OF EFFECTIVENESS

Section 1601 – This Ordinance shall become effective on the date of its adoption.

ARTICLE XVII - MANUFACTURED HOUSING

Section 1701 Purpose

Allenstown has a disproportionately large ratio of manufactured homes to other type of residential housing units compared with the statewide average for other comparable towns. The intent of this ordinance, over time, is to bring this ratio closer to the statewide average.

Section 1702 Definitions

- a. As used in this Article, “manufactured housing” shall have the same meaning as that set forth in RSA 674:31 which at adoption provides any structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical contained therein. Manufactured housing as defined in this section shall not include pre-site built housing as defined in RSA 674:31-a.
- b. As used in this Article, “manufactured housing park” shall have the same meaning as set forth in RSA 205-A: 2 which at adoption provides “manufactured housing park” means any parcel of land under single or common ownership or control which contains or is designed, laid out or adapted to accommodate two or more manufactured houses. Nothing herein shall be construed to apply to premises used solely for storage or display of manufactured housing.
- c. Any reference to mobile homes used in the Town of Allenstown’s ordinances shall mean manufactured housing as defined in this section.

Section 1703 Prohibitions

- a. Manufactured housing shall only be permitted manufactured housing parks and subdivisions created for the placement of manufactured housing on individually owned lots in districts zoned to permit such use as otherwise set forth in this Zoning Ordinance.
- b. No manufactured housing park shall be permitted in any zone except the Open Space and Farming Zone where it shall only be allowed by Special Exception of the Zoning Board of Adjustment subject to the requirements of this Article and such other conditions as the Zoning Board of Adjustment may require. Nothing in this section shall be construed as relieving anyone seeking a Special Exception under this Section from complying with the requirements for site plan review by the Planning Board.

Section 1704 Requirements

- a. There currently exists 627 manufactured house lots and spaces in Allenstown comprised as follows:

Bear Brook Gardens One	113
Bear Brook Gardens Two	08
Bear Brook Villa	153
Brookside Terrace	22
Chroniak's	05
St. Germain's	05
Holiday Acres	298 and
23 manufactured houses on individual house lots.	

The Board of Selectmen shall be authorized to issue a building permit for a new manufactured housing lot or space whether it exists in a manufactured housing park or subdivision for every fifteen (15) certificates of occupancy issued for newly constructed units of residential housing other than manufactured housing located in Allenstown. The ability to issue a building permit for a new manufactured housing site shall be measured cumulatively beginning at the date of adoption which shall be maintained by the building inspector or designee. A building permit for a new manufactured housing site shall only be issued to a person with a new manufactured housing site approved by the Planning Board.

- b. All manufactured housing brought in Allenstown for residential use shall meet all current building and safety codes.
- c. No manufactured housing shall be greater than one (1) story in height.
- d. No manufactured housing shall have less than seven hundred eighty (780) square feet of interior floor area.

Section 1705 Manufactured Housing Park Requirements

- a. No person shall construct, maintain, operate or alter any manufactured housing park without a valid manufactured housing permit issued annually by the Board of Selectmen. Manufactured housing park permits shall run from January 1 to December 31. All manufactured housing parks seeking renewals of their permits shall file an application by December 1 of the year prior to which they seek issuance of the permit. A manufactured housing park permit shall be issued upon the satisfactory completion of Section 1705 b and c.
- b. All manufactured housing park owners shall pay annually with the submission of their permit application or permit renewal an administrative fee of \$25.
- c. All permit applicants or applicants for permit renewal, if the required information set forth below has changed since the prior permit, shall provide the following information signed by the park owner or operator, certifying the information being furnished is true and correct:
 - 1. Proof of ownership;
 - 2. A complete set of plans, drawn to scale or a schematic drawing that reasonably represents the following:

- a. the area and dimensions of the tract of land;
 - b. the locations and dimensions of all roads and walkways within the park;
 - c. the location of all utilities serving the property and each manufactured home, including water and sewer lines and the sewage disposal system;
 - d. the location of all storage tanks greater than fifty (50) gallons;
 - e. the location of any existing or proposed buildings or structures;
3. A description of any plans for development or construction within the next year and whether or not all appropriate approvals and permits for development or construction have been obtained.
- d. Manufactured housing parks may be located in Open Space and Farming Zones and only by special exception, upon approval of the Board of Adjustment, subject to such conditions as may be imposed by the Board of Adjustment. Manufactured housing lots/spaces shall be at least at a distance of two hundred (200) feet from the edge of the nearest public right of way as a buffer zone.
 - e. The minimum size of a manufactured housing park shall be ten (10) acres and contain at least two (2) manufactured houses.
 - f. For manufactured housing permitted in a manufactured housing subdivision, for each lot upon which a manufactured house will be located, shall be at least two hundred (200) feet wide by two-hundred (200) feet deep and shall abut on a public way with unobstructed access to a public street. Such lots shall be clearly delineated by man-made markers or natural monuments and otherwise shall meet all other requirements contained in this Article, other zoning requirements contained in this Ordinance, site plans and Planning Board regulations.
 - g. Each lot or space in the manufactured housing park upon which a manufactured house will be located, shall be at a minimum two hundred (200) feet wide and two hundred (200) feet deep. The dimensions of each manufactured housing lot or space shall be clearly delineated by man-made markers, natural monuments, landscaping or other acceptable means of demarcation.
 - h. No manufactured housing contained in a manufactured housing park shall be closer than 20 feet from the front boundary line or 15 from any side or rear line of the manufactured housing lot or space, except that a maximum of 1 utility shed or outbuilding no greater than 144 square feet of floor area may be located no less than 1 foot from the side or rear boundary line and be no closer than 6 feet from any residence. In no case shall manufactured house be located within 30 feet of another manufactured house.

~~No manufactured housing contained in a manufactured housing park shall be closer than twenty (20) feet from the front boundary line or fifteen (15) feet from any side or rear line of the manufactured housing lot or space, except that a utility shed or outbuilding no greater than one hundred forty four (144) square feet may be located no less than one (1) foot from the side or rear boundary line. In no case shall a manufactured house be located within thirty (30) feet of another manufactured house.~~

- i. Each lot or space in the manufactured housing park shall have a clearly delineated area of pavement, gravel, crushed stone or other acceptable material at least fifteen (15) feet wide by fifteen feet deep on which to park a minimum of two (2) motor vehicles.
- j. No manufactured housing space or lot shall have direct ingress or egress to a public street or road. All manufactured housing parks shall have at least two (2) private roadways accessing a public street or road. All roadways in the manufactured housing park shall be at a minimum twenty (20) feet wide, well-drained, adequately graveled, hard-surfaced or paved and maintained in good condition. All roadways shall be lighted at night and shall have a light intensity at the center of the roadway of two (2) foot-candles. No parking shall be allowed along these roadways within the park unless the roadway is thirty (30) feet in width or greater.
- k. Each manufactured housing lot or space shall have an accessible, adequate, safe, potable supply of water provided by the manufactured housing park which shall furnish a minimum of one (1) gallon per minute and shall comply with all federal, state and local laws, regulations and ordinances for safe drinking water.
- l. All plumbing in the manufactured housing park shall comply with all federal, state and local laws, regulations and building codes and shall be maintained in good operating condition.
- m. Each manufactured housing space or lot shall have supplied to it, and electrical outlet supplying at least one hundred ten (110) volts. Each such electrical outlet shall be weatherproof. All electrical installations shall comply with all federal, state and local laws, regulations and building codes.
- n. All manufactured housing parks shall be served by a public sewage disposal system or a private sewage disposal system, which meets the requirements of State of New Hampshire Department of Environmental Services. Each manufactured housing lot or space shall be provided with a satisfactory sewage disposal connection, which will be maintained in good repair.
- o. The storage, collection and disposal of solid waste in the park shall not create a health hazard, vector breeding or harborage, accident hazard, air pollution, or noxious odors. All solid waste and garbage shall be stored in a fly-tight, water-tight, rodent-proof containers which shall be in sufficient number and capacity to prevent any solid waste or garbage from overflowing. If the park is providing a center point for trash disposal, the park shall provide sufficient covered containers in which to dispose of solid waste, the location of which shall be a minimum of 150 feet from the manufactured housing lot or space.
- p. All manufactured housing park owners, operators and attendants shall notify the health officer of any infectious or hazardous health conditions which they may discover in the park.
- q. All utilities serving the manufactured housing park and the individual manufactured housing lots shall be located underground.

Section 1706 Non-Conforming Uses

- a. Any manufactured housing park and any manufactured housing lawfully existing at the time of this Ordinance or any amendment thereto may be continued although said manufactured housing park does not conform to the provisions hereof. However, all existing and non-conforming

manufactured housing parks shall not be exempt from the permit and reporting requirements that are set forth in Section 1705 a, c and p of this Ordinance. Any non-conforming use, which has been discontinued, shall not be re-reestablished.

- b. When any manufactured housing is replaced or reconstructed, such manufactured house, independent of the lot or space upon which it is situated, must be in conformance with all current ordinances.

ARTICLE XVIII - HAZARDOUS MATERIAL CLEANUP ORDINANCE

As Adopted March 17, 1990

Section I – Policy

It is hereby declared to be the policy of the Town of Allentown that all costs incurred by the Town for the control and/or containment cleanup of any release of a hazardous material shall be borne by the responsible party.

Section II – Definitions

The following words and/or phrases shall, for the purposes of this Ordinance, have the meanings ascribed to them herein unless the context of a particular section clearly requires otherwise.

Cleanup – The control, containment, removal or neutralization of any released hazardous material for the purpose of promoting or protecting public health and/or safety.

Hazardous Material – Any substance or material in such quantity and form which may pose an unreasonable risk to health and safety or property, which may include but is not limited to, explosives, radioactive materials, etiologic agents, biological material, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials and compressed gasses which are listed by the Materials Transportation Bureau of the United States Department of Transportation in Title 49 of the Code of Federal Regulations and any amendment thereto.

Release – The uncontrolled, improper or unsafe release, discharge or escape of any hazardous material to any place or in any manner which poses an actual or potential threat to any person, property, wildlife or the environment.

Section III – Notification: Cleanup

The Allentown Fire Department shall immediately be notified of any release or potential release of any hazardous material within the Town. At the same time, the responsible party or parties shall take all proper measures reasonably necessary and available to stop the release and clean up the affected area.

Section IV – Cost Recovery

1. Upon the completion of any cleanup in which municipal forces participated, all costs of the cleanup shall be itemized by each Town department involved, including the Fire Department. Such costs shall include, but are not limited to, the cost of cleaning, repair, restoration or replacement of any Town material or Town employee who participated in the cleanup and the costs of all contracted services utilized in the cleanup.
2. Upon receipt of these itemizations, including its own, but in no event later than 60 sixty days from the day of the release, the Fire Department shall bill the full cost of the cleanup to the responsible party or parties. The bill shall include a description of the costs incurred. Bills for less than the full amount of these costs shall be allowed provided that the responsible party is advised of the reason therefore and the approximate date by which it can expect to receive a complete bill.

3. Each responsible party shall be jointly and severally liable to the Town for the costs of the cleanup for which they are responsible. Such costs may be collected by any lawful means including, but not limited to, appropriate court proceedings. All funds received from responsible parties shall be forwarded to the Town Treasurer for deposit in the Hazardous Materials Fund.
4. Any and all costs recovered from a responsible party shall be separate from and in addition to any penalty that may be assessed for any violation of any provision of this Ordinance.

Section V – Severability

Should any provision of this ordinance be held invalid by a court of competent jurisdiction, such finding of partial invalidity shall not affect the remainder of this Ordinance which shall be continue in full force and effect. To this end, the provisions of this Ordinance are severable.

ARTICLE XIX - SOLID WASTE MANAGEMENT ORDINANCE

As adopted September 8, 2003

Whereas, the Town of Allenstown has determined that in the best interest of its citizens, to provide for the disposal of solid waste through centralized solid waste, refuse-to-energy facility (waste plans): and

Whereas, the Town has entered into an Agreement for Formation of the Concord Regional Solid Waste/Resource Recovery Cooperative (COOP) for the purpose of jointly exercising with other COOP members their power and authority for the disposal of solid waste: and

Whereas, pursuant to the terms of the Service Contract between the COOP and Signal Environmental Services (SE), the COOP is required to deliver minimum quantities of Acceptable Waste (as defined herein) to the Waste Plans; and

Whereas, it is desirable and in the best interests of the public health, safety and welfare of the citizens of the Town for the Town to exercise its authority to control the collection, transportation and disposal of solid waste generated within its borders to ensure the delivery of minimum quantities of Acceptable Waste to the waste plant, and to empower the Board of Selectmen to adopt rules, regulations and fees in furtherance thereof.

Now, therefore, pursuant to the authority granted in NH RSA Chapters 149-M and 47:17 as amended, the Town adopts the following Ordinance to be known as the Town of Allenstown Solid Waste Management Ordinance (SWMO).

Section 1 – Definitions

Acceptable waste – for the purposes of the SWMO means a) household garbage, trash, rubbish and refuse, originating within the boundaries of the Town, normally collected and disposed of, as a result of residential pickups or deliveries; and b) such types of agricultural, commercial and industrial waste originating within the boundaries of the Town as are normally collected or disposed of, but excluding hazardous waste, unacceptable waste and other solid waste.

Commercial – for the purposes of the SWMO, means commercial entities doing business in the Town of Allenstown, including but not limited to, contractors, multi-family dwellings and/or manufactured housing parks of more than three units per parcel, respectively and commercial establishments of any size such as, residential boarding and lodging homes, convalescent and nursing homes, churches, schools, ski areas, motels, inns, restaurants, lounges, retail sales, service businesses, professional offices, manufacturing or automotive related businesses.

Facility – means the transfer station or other sites or areas designated by the Board of Selectmen within or outside the borders of the Town for the delivery or disposal of solid waste collected within the borders of the Town.

Hazardous Waste – means a) waste containing explosive, toxic or pathological substances; b) waste defined or classified as hazardous waste at any time under federal, state or local law, or any regulation hereunder, or waste defined by any applicable federal, state or local law as low level radioactive waste; c) waste prohibited for incineration by any local, state or federal agency because of its toxic nature; d) waste the processing of which would result in hazardous waste under a, b or, c of this definition or e) containers

which hold or which previously held waste described under a, b, or c above. If any governmental entity having jurisdiction shall determine that any substances which are not, as of the date of this Ordinance, considered harmful or of a toxic nature or dangerous, are harmful, toxic or dangerous, such substances shall thereafter be deemed hazardous waste.

Other Solid Waste – means residential white metal goods, household appliances, tires, street sweepings, tree stumps and residential demolition debris.

Residential – means all single-family dwellings and multi-family dwellings consisting of three units or less per parcel.

Unacceptable Waste – means waste that is unacceptable at the Waste Plant such as a) pathological and biological waste, oil, sludge, cesspool or other human waste, human remains, street sweepings, large items of machinery and equipment such as automobile and vehicular parts, tires, trailers, agricultural equipment, marine vessels, or similar items, farm and other large machinery, wire and cable from industrial sources, plastics from industrial sources in excess in total of 5% of the Town's Waste Plant waste load, foundry sands, tree stumps, liquid wastes and slurries, explosives including ammunition and firearms, radioactive materials, any item of waste exceeding 6' 6" in any one of its dimensions or being in whole or in part a solid mass, the solid portion of which has dimensions such that a sphere with a diameter of eight inches could be contained within such a solid portion; c) animal remains, dirt concrete and other non-burnable construction material and demolition debris and chemicals from industrial and commercial sources such as cleaning fluids, petroleum products, paints, acids, caustics, pesticides, insecticides, poisons, drugs or other materials the processing of which SES reasonably believes would pose a threat to the health, safety or the processing of which may cause damage to the waste plant; d) any waste which if processed would violate or cause the violation of any judicial decision, order or action of any federal, state or local government or any agency thereof or applicable law; and e) hazardous waste.

Waste Plant – means the Concord Regional Solid Waste/Resource Recovery Cooperative (COOP).

Section II – Regulated Activity

- a. All acceptable waste originating or collected within the municipal boundaries of the Town shall be delivered to and deposited at the waste plant or the facility as designated by the Board of Selectmen.
- b. The Board of Selectmen are empowered to explore the feasibility of constructing a joint facility with any other surrounding town if so located and costs are allocated on a percentage of use basis.
- c. No person shall deliver or cause the delivery of any solid waste originating from outside the municipal boundaries of the Town to the waste plants without the prior written consent of the Board of Selectmen. No person shall deliver or cause the delivery of any unacceptable waste or hazardous waste to the facility. No person shall cause or allow solid waste originating out the Town which is delivered to the Waste Plant by such person to be credited against the quantity of acceptable waste received or accepted at the waste plant for the account of the Town. Any person licensed by the Town of Allentown to deliver acceptable solid waste to the plant or facility shall haul only acceptable solid waste resulting from within Town borders. No person shall deliver or cause the delivery of acceptable waste to the waste plant in any vehicle with a gross weight of less than 27,000 pounds.

- d. All items defined as unacceptable waste, hazardous waste or other solid waste shall be responsibility of the owner or waste generator and shall be disposed at the owner's or generator's expense.
- e. The Town shall not bear the cost for pickup or transportation of any commercial acceptable solid waste generated in the Town of Allentown. The tipping fee for all commercial acceptable solid waste delivered to the waste plant shall be paid by the Town.

Section III – Licensing

- a. No person shall collect, transport or deliver solid waste originating from within the Town without obtaining a license from the Board of Selectmen, except that a person that collects, transports or delivers solid waste exclusively in a vehicle or vehicles with a gross vehicle weight of less than 8,600 pounds shall not be required by this section to obtain such a license.
- b. Any person required by the Ordinance to obtain a license shall make application to the Board of Selectmen providing the information required. Each application shall be accompanied by a non-refundable application fee of \$25.
- c. The application shall contain all information required by the Board of Selectmen including, but not limited to a description of the activities engaged in e.g. collection, transportation or delivery of acceptable waste; list of commercial customers and size and location of containers, pick up route, designated day and time of pick up, type and amount of waste handled; certificate of insurance with limits of coverage as determined by the Board of Selectmen; a description of the facilities operated and used; and an equipment inventory, including a description of the make, model and year of each vehicle used for the collection or transportation of solid waste.
- d. Licenses shall be renewed annually and all information provided in the initial application shall be reviewed upon application for license renewal. If the Board of Selectmen shall determine the application is incomplete, they shall notify the applicant in writing of the specific information necessary to complete it. The Board of Selectmen shall be informed immediately in writing of any changes in or additions to the information required on the application.
- e. Licenses issued hereunder shall not be transferable.
- f. All licenses shall expire one year from the date of issue unless otherwise stated on the license or revoked or suspended sooner in accordance with the provisions of this Ordinance.
- g. The annual license fee shall be \$100 for each applicant licensed. In the event the Board of Selectmen denies a license application, they shall notify the applicant in writing and shall state the reasons for the denial. Upon such notice, the applicant may request a hearing in accordance with the procedures in Section V.

Section IV – Suspension and Revocation

- a. Any license issued under this Ordinance may be suspended or revoked by order of the Board of Selectmen after the Board shall have notified the licensee in writing of the intent to suspend or revoke, the reasons therefore and the licensee has had the opportunity for a hearing in accordance with procedures in Section V.

- b. A hearing authorized by this Ordinance shall be held within 30 days after request by the Board of Selectmen of the written request for a hearing.
- c. The licensee or applicant shall be notified in writing as to the time and place of the hearing at least 10 days prior to the hearing date. The applicant or licensee has the right to be represented by counsel, to offer evidence and to cross-examine witnesses.
- d. A determination shall be made by the Board of Selectmen within 20 days after the conclusion of the hearing and a notice of the decision shall be served upon the applicant or licensee by certified mail, return receipt requested.
- e. A final determination relative to the denial, suspension or revocation of a license and the period of suspension or revocation shall take effect as provided in the notice but no later than 10 days after the date notice of such final determination has been mailed by certified mail to the applicant. Such final determination shall be conclusive. Notice of the final determination shall set forth the reasons for the denial, suspension or revocation and the effective dates thereof, together with a statement that such decision may be appealed as provided in the Ordinance.

Section VI – Amendment

This Ordinance may be amended by the Board of Selectmen subsequent to a Public Hearing subject to the Town's continuing obligations under the COOP Agreement and the COOP's obligations under the Service Contract, as the same may be amended from time to time.

Section VII – Effective Date

This ordinance shall become effective upon adoption, provided however, that Section II shall become effective on the date to be designated by the COOP in a written notice to the Board of Selectmen certifying that the Town's obligation under the COOP Agreement to provide Acceptable Waste to the Waste Plant shall commence on such date. Notice and publication of the date on which Section II shall become effective shall be made by the Board of Selectmen at least 30 days prior to such effective date.

Section VIII. Curbside Collection

A. Eligibility.

- 1. The Town provides curbside collection of household solid waste (hereinafter sometimes referred to as trash or garbage) as a service to residents of the Town. In order to be eligible for this service, you must be a resident of Allentown, live in a residential structure on a public way and dispose of household solid waste in accordance with the rules prescribed herein. Nonresidents, businesses, commercial or industrial enterprises and residents not living on a public way are not eligible for curbside collection.
- 2. Residents not living on a public way are entitled to dispose of their household solid waste at the transfer station upon obtaining a residential solid waste permit.

3. Businesses, commercial or industrial enterprises and nonresidents maybe permitted to dispose of solid waste at the transfer station at the discretion of the Town and subject to such fees and regulations as the Town may impose. The Town reserves the right to prohibit disposal by businesses, commercial or industrial enterprises and/or nonresidents and require that they dispose of the solid waste at the Waste Plant.

B. Curbside Collection Times

1. Curbside collection normally occurs on Tuesdays and Wednesdays, except in the cases of legal holidays, severe inclement weather, unusually heavy workload or equipment difficulties or malfunction. Household solid waste not collected for any of these reasons will be collected on the next available workday.
2. Household solid waste shall not be placed at the curbside until 5:00 p.m. of the day before scheduled collection or later than 7:00 a.m. the day of collection.
3. The Town is not responsible for household solid waste until it is actually collected. In the event there is a delay in collection, residents are encouraged to take appropriate precautions to secure their trash.

C. Rules of Collection

1. Household solid waste shall be placed in a trashcan no larger than thirty gallons (30 gal) in size, with sturdy handles. Residents are responsible for providing and maintaining their own trash cans and bags. The Town does not sell or provide trashcans or bags for curbside collection.
2. Trashcans shall not weigh more than forty pounds (40 lbs.) When filled and shall be placed at the curbside or end of the driveway. The Highway Department will not remove trashcans or solid waste from structures or porches located near the curbside.
3. Trash cans are replaced by the Highway Department along the curbside and lids, if any are placed in the same location, but will not be replaced on the trash can.
4. The Town is not responsible for loss or damage to trash cans or lids before, during or after collection.
5. Loose household solid waste not placed in trashcans but deposited in secure trash bags which do not exceed forty pounds (40 lbs.) in weight will generally be collected so long as they comply with all other rules of collection and disposal. Cardboard boxes are not an acceptable trash receptacle. The Highway Department is not responsible for gathering, sweeping or collecting loose trash or garbage, which may have been spilled or scattered, from trashcans or bags.
6. Animal waste from household pets including "kitty litter" maybe disposed of at curbside, provided that it is double bagged and placed in a trash can with a lid and does not exceed the forty pounds (40 lbs.) weight limit.

7. Broken glass, needles, syringes and other sharp objects shall be securely enclosed in rigid protective packaging and placed in a trashcan to prevent needle sticks and cuts to Highway Department Employees. Broken glass, needles, syringes, and other sharp objects shall not be disposed of in a trash bag unless the trash bag is placed inside a trashcan.

D. Supplemental Services

1. The Town may schedule seasonal special pickups as listed below for our residential curbside customers, subject to availability of our workforce and disposal facilities. These optional services are generally offered for one week only. Materials are put out on the same day as regularly scheduled rubbish pickup. Advertising in the local newspaper and postings in a number of public places within the Town notify residents-Spring cleanup of yard waste-generally limited to small brush and trimmings from lawn areas (not woodlands)

-Spring cleanup of appliances (white goods) and residential scrap metal (bicycles, BBQ grills, etc.).

-Fall cleanup of compostible leaves; generally limited to bagged leaves only (no brush, soil, metal, etc.).

-Winter pickup of trees and wreaths, free of decorations and all metals.

E. Home Occupations

1. Curbside collection will be made from lawful "Home Occupations" located within the Residential Districts, as defined in the Zoning Ordinance, subject to the limitations contained herein. Curbside collection shall not occur from Home Occupations in any other zone.
2. Home based daycare facilities with greater than (3) three children, in addition to the children residing in the family which occupies the residence, are considered to be a commercial activity and will not be collected.
3. Diaper waste from non-commercial, home daycare facilities must be double bagged, tied, and put out in a trashcan with a lid meeting the residential requirements.
4. Solid waste from Home Occupations shall not exceed the amounts customarily generated by a single-family household. The Town shall exercise reasonable discretion in this matter, and its determination in this regard shall be final. For example, vendors and route sales people may not use Town curbside collection to dispose of packaging, advertising materials, waste product, etc.

F. Recycling

1. The Town is not equipped to separate or collect recyclable materials, at curbside. Residents wishing to recycle should bring their recyclables, already separated, to the Recycling Center at the Transfer Station.

G. Prohibitions

1. The following materials are not accepted for curbside collection:
 - Hazardous waste, in any quantity - toxic, explosive, corrosive, and highly flammable materials;
 - Motor vehicle parts, including tires, batteries and fluids;
 - Animal carcasses;
 - Construction and demolition waste;
 - Leaves, yard waste, brush, logs, and grass clippings;
 - Furniture, large appliances and scrap metals; and
 - Electronics, such as computers, radios television, etc.

The Transfer Station, for a fee, may accept these materials.
2. The Town does not provide solid waste collection for businesses, commercial and industrial enterprises or nonresidents. The Transfer Station however, at the discretion of the attendant, may accept household trash, office paper, garbage; cardboard boxes crushed and tied together, grass clippings, leaves, and brush cut in 4-foot sections. Any contractor doing work in Allentown only may take demolished material to the landfill. In order to gain access to the landfill you must have either a building permit or demolition permit from the Town of Allentown. Absolutely no material from job sites out of Allentown will be accepted. Any resident caught bringing in trash from another community will be subject to the fines listed below. Demolition is limited to small items. No mobile homes, complete houses, or barns will be accepted.

H. Penalties

1. Penalties notwithstanding any other provision of State law or Allentown Municipal Ordinances any violation of paragraphs A thru G of this article shall constitute a violation subject to a fine of not more than \$1,000.00 for each offense. Each day of non-compliance shall constitute a separate offense.
2. Any violation of section VIII G.2 shall constitute a misdemeanor and be punishable by a fine of up to \$2000.00 for each violation. Each day of non-compliance shall constitute a separate offense.

ADOPTED AND PASSED BY THE BOARD OF SELECTMEN September 8, 2003

EFFECTIVE DATE October 8, 2003

Honorable Sandra McKenney, Chairperson

Honorable Benjamin Fontaine, Member

Honorable Arthur Houle, Member

ARTICLE XX - TELECOMMUNICATION TOWERS AND ANTENNAS

3/10/01

A. Purpose and Intent

This ordinance is enacted in order to establish general guidelines for the siting of telecommunication towers and antennas and to enhance and fulfill the following goals:

1. Preserve the authority of the Town to regulate and to provide for reasonable opportunities for the siting of telecommunication facilities while ensuring that telecommunications providers service remains effective and efficient.
2. Reduce or eliminate adverse impacts such facilities may create. Adverse impacts may include, but are not limited to, impacts on aesthetics, impacts on environmentally sensitive areas, impacts to historically significant locations, impacts on flight corridors, reduction in property values, and health and safety concerns.
3. Provide for co-location and minimal impact siting options through an assessment of technology, current locational options, future location availability, innovative siting techniques, and siting possibilities beyond the geographical boundaries of the Town.
4. Permit the construction of new towers only where all other reasonable alternatives have been exhausted, and to encourage the owners and users of towers and antennas to configure them in a manner that minimize visual impacts on said structures.
5. Require antenna co-location on existing tower structures through cooperation and agreements between providers.
6. Document the scheduling of recurring maintenance and safety inspections for all telecommunications facilities and appurtenances.
7. Provide for the demolition and removal of abandoned facilities. Provide a procedure for the town to remove abandoned towers to provide for the health and safety of citizens.
8. Provide for the removal or upgrade of technologically outmoded facilities.

B. Location

Telecommunication facilities shall be allowed in accordance with the following:

1. Permitted by special exception in all zones except residential.
2. In other areas within Town, only as a co-location on preexisting: Towers, Antennas and Alternative Tower Structures.
3. Any Town-owned property except conservation land.

Definitions

1. **Act** - the communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and shall include future amendments to the communications Act of 1934.
2. **Affiliation** - When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest; and when used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.
3. **Alternative Tower Structure** - Man made trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers (see also **Stealth Facility**).
4. **Analog Technology** - Replicates and amplifies voices messages as they are carried from the transmitting antenna to the receiving antenna.
5. **Antenna** - Any exterior apparatus designed for telephonic, radio or television communications through sending and/or receiving of electromagnetic waves.
6. **Antenna Height** - The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grade shall be used in calculation of the antenna height.
7. **Antenna Support Structure** - Any pole, telescoping mast, tower tripod or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.
8. **Applicant** - A person who applies for a wireless facility siting. An applicant can be the owner of the property or someone who is representing the owner, such as the builder, developer, optional purchaser, consultant, or architect.
9. **Broadcast** - To transmit information over the airwaves to two or more receiving devices simultaneously. Information can be transmitted over local television or radio stations, satellite systems or wireless data communications networks.
10. **Cell Site** - A tract or parcel of land that contains a cellular communication antenna, its support structure, accessory building(s) and parking, and may include other uses associated with and ancillary to cellular communications transmission.
11. **Cellular Service** - A telecommunications service that permits customers to use wireless, mobile telephones to connect via low-power radio transmission sites called cell sites, either to a public switched network or to other mobile cellular phones.

12. ***Cellular Telecommunications*** - A commercial Low Power Mobile Radio Services licensed by the Federal Communications Commission (FCC) to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographical cells within a service area and which are capable of being reused in different cells within the service area.
13. ***Cellular Telecommunications Facility*** - A cellular telecommunications facility consists of the equipment and structures involved in receiving telecommunications or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.
14. ***Co-location*** - Locating Wireless communications equipment from more than one provider on a single site.
15. ***Common Carrier*** - An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated prices.
16. ***Communication Tower*** - A guyed, monopole, or self supporting tower, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephones, or similar forms of electronic communication.
17. ***Communications Facility*** - A land use facility supporting antennas and microwave dishes that sends and/or receives radio frequency signals. Communications facilities include structures or towers and accessory buildings.
18. ***Communications Transmission System or Communications System*** - A wired communication transmission system, open video system, or wireless communications transmission system regulated by this ordinance.
19. ***Comprehensive or Master Plan*** - The current adopted Comprehensive/Master Plan of the municipality.
20. ***C. O. W.'s*** - "Cells on Wheels", see ***Temporary Wireless Communication Facility***.
21. ***Digital Technology*** - Technology that covers voices and data messages into digital that represents sound intensities at specific points of time and data content.
22. ***Directional Antenna*** - An antenna or array of antennas designed to concentrate a radio signal in a particular area.
23. ***Dish Antenna*** - A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.
24. ***ESMR*** - Enhanced Specialized Mobile Radio.

25. **FAA** - The Federal Aviation Administration.
26. **FCC** - The Federal Communications Commission.
27. **Frequency** - The number of cycles completed each second by a sound wave; measured in hertz (Hz).
28. **Governing Authority** - The Allentown Board of Selectmen.
29. **Grade** - The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the structure and the property line or when the property line is more than five (5) feet from the structure, between the structure and a line five (5) feet from the structure.
30. **Guyed Tower** - A communication tower that is supported, in whole or in part, by guy wires and ground anchors.
31. **Lattice Tower** - A guyed or self supporting three or four sided, open, steel frame structure used to support telecommunications equipment.
32. **License** - The rights and obligations extended by the municipality to an operator to own, construct, maintain and operate its system within the boundaries of the municipality for the sole purpose of providing services to persons or areas outside the municipality.
33. **MHZ** - Megahertz, or 1,000,000 Hz.
34. **Micro-cell** - A lower power mobile radio service telecommunications facility used to provide increased capacity in high call-demand areas or to improve coverage in areas of weak coverage.
35. **Microwave** - Electromagnetic radiation with frequencies higher than 1,000 MHZ; highly directional signal used to transmit radio frequencies from point-to-point at a relatively low power level.
36. **Microwave Antenna** - A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.
37. **Monopole Tower** - A communication tower consisting of a single pole, constructed without guy wires and ground anchors.
38. **Omnidirectional Antenna** - An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it was designed.
39. **Owner** - The owner of the title to real property of the contract purchaser of real property of record, as shown on the latest assessment records in the Office of the Tax Collector. Owner also includes a deedholder or contract purchaser whose name does not appear in the latest assessment record, but who presents to the municipality a copy of a deed or contract of sale showing date of sale or potential sale.

40. ***Personal Communications Services or PCS*** - Digital wireless telephone technology such as portable phones, pagers, faxes and computers. Such mobile technology promises to allow each consumer the same telephone number wherever he or she goes. Also known as Personal Communication Network (PCN).
41. ***Preexisting Towers and Antennas*** - Any tower of antenna for which a permit has been issued prior to the effective date of these regulations and is exempt from the requirements of these regulations so long as the tower or antennas are not modified or changed.
42. ***Public Property*** - Any real property, easement, air-space, or other interest in real estate, including a street, owned by or controlled by the Town of Allenstown or any other government unit.
43. ***Roof and/or Building Mount Facility*** - A low power mobile radio service telecommunications facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or building face.
44. ***Scenic View*** - A scenic view is a view that may be framed, wide angle, or panoramic and may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a far away object, such as a mountain or of a nearby object.
45. ***Self-Support Tower*** - A communication tower that is constructed without guy wires and ground anchors.
46. ***Spectrum*** - Relating to any transmissions or reception of electromagnetic waves.
47. ***Stealth Facility*** - Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles. (See also ***Alternative Tower Structures***).
48. ***System*** - The communications transmission system operated by a service provider in the municipality.
49. ***Telecommunications*** - The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.
50. ***Temporary Wireless Communication Facility*** - Any tower, pole, antenna, etc., designed for the use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users.
51. ***Tower*** - Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and the like.

52. ***Wireless Communication Facility*** - An all encompassing definition; any towers, poles, antennas, or other structures intended for use in connection with transmission or receipt of radio and television signals, or any other spectrum-based transmission or receipt of radio and television signals, or any other spectrum-based transmission/receptions.
53. ***Whip Antenna*** - An antenna that transmits signals in three hundred sixty (360) degrees. Whip antennas are typically cylindrical in shape and are less than six (6) inches in diameter and measure up to eighteen (18) inches in height . Also called the omnidirectional, stick or pipe antennas.
54. ***View Corridor*** - A view corridor is a three-dimensional area extending out from a viewpoint. The width of the viewpoint corridor depends on the focus of the view . The focus of the viewpoint may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include three hundred sixty (360) degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights may be limited in order to protect view.

D. Telecommunication Facilities Procedural Requirements

1. A scaled plan in accordance with non-residential Site Plan Regulations shall be submitted to the Planning Board including the following additional information: a scaled elevation view, topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fences, landscaping, adjacent land uses (up to 200 feet away), and any other information deemed necessary by the Planning Board.
2. Written proof that the proposed use/facility complies with FCC regulations on radio frequency (RF) exposure guidelines and the FAA regulations on tower lighting requirements shall be submitted to the Planning Board.
3. The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA submission of the EA or EIS to the Board prior to the beginning of the federal thirty (30) day comment period, and the Town's site plan review process, shall become part of the application requirements. The applicants shall submit copies of any EIS or EA documents no later than ten (10) days before the submission of any such documents to FCC for final approval.
4. Each applicant for an antenna and/or tower shall provide to the Planning Board an inventory of all known existing towers that are within the jurisdiction of the Town and those within two (2) miles of the border thereof, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or special exception permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the

governing authority, provided, however, that the Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. This evidence shall consist of one or more of the following:

- a. Substantial evidence that no existing towers or structures are located within the geographical area required to meet the applicant's engineering requirements, provided that a description of the geographical area required is also submitted.
 - b. Substantial evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements, and why.
 - c. Substantial evidence that existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - d. Substantial evidence that applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - e. Substantial evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - f. Substantial evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.
5. The applicant proposing to build a new tower shall submit an agreement with the Town that allows for a maximum allowance of co-location upon the new structure. Such a statement shall become a condition to any approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well planned development of the Town and grounds for denial.
 6. The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Planning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. The cost for this review shall be borne by the applicant in accordance with NH RSA 676:4(g).
 7. Each Applicant for a tower, monopole or alternative structure shall submit a design certified by a competent engineer that the structure has been engineered to accommodate the maximum number of all compatible telecommunication media antennae.

E. Performance Standards

The uses listed in this section are deemed to be permitted uses, subject to the requirements and restrictions of this ordinance and at the discretion of the Planning Board, may require further review under this ordinance in accordance with Site Plan Review Regulations, and all other applicable ordinances and regulations of the Town of Allentown.

1. Principal or Secondary Use

Subject to this ordinance, an applicant who obtains site plan approval to site under this ordinance as a secondary and permitted use, may construct telecommunications facilities in addition to the existing principal use. Antennas and towers may be considered either principal or secondary uses. A different existing use or an existing structure shall not preclude the installation of an antenna or tower which complies with zoning district development regulations, including, but not limited to area, setback, lot coverage, frontage and other dimensional requirements, the dimension of the entire lot shall control, even through the antennas or towers may be located on leased parcels with such lots. Towers that are constructed and antennas that are installed in accordance with the provisions of this ordinance, shall not be deemed the expansion of a non-conforming use or structure. Further, such facilities shall not be considered accessory use.

2. Height Requirements

New Tower Construction - single user 90 feet maximum.

New Tower Construction - two or more users 180 feet maximum with guaranteed co-location.

Co-location on pre-existing tower-current height plus 15% (not to exceed 180 feet).

Co-location on existing structure-current height plus 40 feet.

The height requirements and limitations outlined above shall preempt all other height regulations as required by the Zoning Ordinances, and shall apply only to telecommunications facilities. The Planning Board may waive the height limitations only if the intent of the ordinance is preserved (e.g. when it can be shown that there would be no increase in adverse impact) and the increased height would provide a greater opportunity for co-location provided that:

- a. The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.
- b. A written narrative identifying a particular hardship or special circumstance that warrants granting the waiver is provided to the Planning Board. Factors to be considered, but not limited to, in determining a hardship or special circumstances shall include:
 - i. topography and other site features;
 - ii. availability of alternative site locations;

- iii. property location as it relates to required coverage area;
 - iv. size/magnitude of project and availability of co-location.
- c. Necessary federal approvals and/or recommendations have been received.

3. Setbacks and Separation

The following setbacks and separation requirements shall apply only to telecommunication facilities and shall supersede all other standards found elsewhere in the Ordinance or other applicable Town Ordinances and Regulations.

- a. Towers shall be setback a distance equal to 100% of the height of the tower from any boundary line, above ground utility line, or other principal use structure located on the property the tower is sited upon. The Planning Board may, for good cause, reduce the requirements of this section no less than 50% of the tower height.
- b. Tower guys and all other accessory facilities shall conform with the minimum setback requirements of the zoning district in which said facilities and appurtenances are located.
- c. Towers over ninety (90) feet shall not be located within fifteen hundred (1,500) feet from any existing tower, unless located on the same lot.

4. Security Fencing

Towers shall be enclosed by appropriate security fencing not less than six (6) feet in height, with an adequate anti-climbing device or mechanism.

5. Landscaping

- a. Towers shall be landscaped with a buffer of suitable vegetation that effectively screens the view of the tower compound from abutting residential property. The minimum standard buffer shall consist of a landscaped strip ten (10) feet wide outside the perimeter of the tower compound. Existing (natural) vegetation is preferred.
- b. The requirement for landscaped screening may be reduced or waived entirely by the Planning Board in locations where the visual impact of the tower compound to abutting residential uses is deemed to be minimal.
- c. Existing mature tree growth and natural landforms present on the site shall be preserved to the maximum extent possible. Natural growth on the site may be deemed a sufficient buffer on large, remote, wooded lots.

6. Aesthetics and Lighting

The guidelines in this subsection shall govern the location of all towers and the installation of all antennas. However, the planning Board may waive these requirements only if it determines that the goals of this ordinance are served thereby.

- a. Towers shall either maintain a galvanized steel finisher, subject to any applicable standards of the FAA, or be painted a neutral color, so as to reduce visual obtrusiveness.
- b. At a tower site, the design of the building and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and previously developed environment. These buildings and facilities shall also be subject to all other Site Plan Review Regulation requirements.
- c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- d. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- e. Towers shall not contain any permanent or temporary signs, writings, symbols, or any graphic representation of any kind.

Federal Requirements

All towers must meet or exceed current standards and regulation of the FAA, FCC and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna, as abandoned, at the owners expense through the execution of the posted security.

8. Building Codes-Safety Standards

To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to person or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower

into compliance with such standards. If the owner fails to bring such tower into compliance within thirty (30) days, such failure shall constitute an abandonment and grounds for the removal of the tower or antenna, as abandoned, at the owners expense through execution of the posted security.

9. Certification of Safety Standards and Continued Need

The owner of a tower or antenna shall provide an annual certification to the Zoning Compliance Officer verifying compliance with building codes and safety standards. The certification shall also verify that the structure is still needed for the operation of the owners network. Said certification shall be submitted to the Zoning Compliance Officer prior to December 31st of each year. Failure to submit an Annual Certification shall constitute abandonment and be grounds for removal.

F. Exemptions

1. Government Use

Antennas or towers owned, performed federal, state, county or town functions, or otherwise controlled by the respective governments shall be exempt from the requirements of this Telecommunications Facility Ordinance.

2. Amateur Radio; Receive-Only Antennas

This ordinance shall not govern any tower, or the installation of any antenna that is under seventy (70) feet in height and is owned and operated by a federally licensed amateur of citizens band station operator and/or is used exclusively for receive-only antennas. This sections adopts the provisions and limitations as referenced in NH RSA 674:16, IV.

3. Essential Services and Public Utilities

Henceforth, from the date of adoption of this ordinance, telecommunications facilities shall not be considered as infrastructure, essential services, or public utilities, as defined or used elsewhere in the laws or ordinances and regulations. Siting for telecommunications facilities shall be considered a use of land, and is addressed by this ordinance.

G. Bonding and Security and Insurance

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and/or unwilling to remove the tower. Bonding and surety shall be consistent with the provisions of the Site Plan Review Regulations. Furthermore, the Planning Board shall require the submission of proof of adequate insurance covering casualty or liability.

H. Removal of Abandoned Antennas and Towers

Any antenna or tower that is not operated for a continuous period of twelve (12) months, or is no longer needed for the operation of the network, shall be considered abandoned and hazardous to the public health and safety. The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Zoning Compliance Officer notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed per town regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within ninety (90) days, the town may execute the security and have the tower removed. If there are two (2) or more users of a single tower, this provision shall not become effective until all users cease using the tower.

ARTICLE XXI - IMPACT FEE ORDINANCE
03/11/2003

Section 2101 Purpose

This ordinance is enacted pursuant to RSA 674:21 in order to promote public safety, health, welfare and prosperity by:

- A. Ensuring that adequate and appropriate facilities are available to individuals who come to live in or do business in the Town of Allenstown.
- B. To prevent scattered or premature development of land that will involve danger or injury to health, safety or prosperity by reason of the lack of water, drainage, transportation, schools, fire protection or other public services that necessitate the excessive expenditure of public funds for the supply of such services.
- C. Provide for harmonious development of the municipality and its environs.
- D. Ensure the proper arrangement and coordination of streets.
- E. Ensure streets are of sufficient width and condition to accommodate the use by prospective traffic.

Section 2102 Definitions

- A. "Impact fee" means a fee or an assessment imposed upon development, including subdivision, building construction or other land use change, in order to help meet the needs occasioned by a development for the construction or improvement of capital facilities owned or operated by a municipality, including and limited to water treatment and distribution facilities; waste water treatment and disposal facilities; sanitary sewers; storm water drainage and flood control facilities; public road systems and rights of way; municipal office facilities; public school facilities; the municipalities proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities not including public open space.

Section 2103 Effectiveness

- A. This ordinance shall become effective only upon the adoption by the Planning Board of a master plan and a capital improvement program.
- B. Upon adoption by the Planning Board of a master plan and a capital improvement program the Planning Board is hereby authorized to assess impact fees as defined herein in accordance with requirements set forth in this ordinance.
- C. The Planning Board shall have the authority to adopt regulations to implement the provisions of this ordinance.

Section 2104 Impact Fee Assessment

- A. The amount of any impact fee shall be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee. The upgrading of existing facilities or infrastructure, the need for which is not created by new development, shall not be paid for by impact fees.

Section 2105 Administration of Impact Fees

- A. Each paid impact fee shall be accounted for separately, shall be segregated from the Town's general fund (impact fees may be co-mingled in a single account) and be spent upon order of the governing body, it shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs for which fees are collected to meet. All impact fees shall be assessed prior to or as a condition of, the issuance of a building permit or other appropriate permission to proceed with development. Between the date of assessment and collection, the Planning Board may require the developer to post security, in a form of a cash bond, letter of credit or a performance bond so as to guarantee future payment of assessed impact fees. Impact fees shall be collected as a condition of the issuance of a certificate of occupancy; provided however, in projects where off site improvements are to be constructed simultaneously with the projects development, and where the Town has appropriated necessary funds to cover such portions of the work for which it is responsible, the Town may advance the time of collection of the impact fee to the issuance of a building permit. The Planning Board and the assessed party may establish an alternate, mutually acceptable schedule of payment of impact fees. If the full impact fee assessed under this ordinance is not encumbered or otherwise legally bound to be spent for the purpose which it was collected within six (6) years, the fee shall be refunded to the assessed party with any accrued interest. Whenever the calculation of the impact fee has been predicated upon some portion of public improvement costs being borne by the Town a refund shall be made upon the failure of the town meeting to appropriate the Town's share of the capital improvement costs within six (6) years from the date of payment thereof.
- B. This Ordinance shall not be deemed to effect the existing authority of the Planning Board over subdivisions and site plans including but limited to the authority to declare development premature or scattered in accordance with the regulations of the Planning Board and in accordance with RSA 674: 36, II.

END_____

03/11/2008